

Public Document Pack

11 December 2007

Dear Councillor

A meeting of the Council will be held in the **Council Chamber, Civic Centre, Newcastle Road, Chester-le-Street, Co Durham, DH3 3UT on Thursday, 20th December, 2007 at 6.00 pm**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roy Templeman', is written over a faint rectangular stamp.

R TEMPLEMAN

Chief Executive

AGENDA:

1. Apologies for Absence
2. Minutes of meeting held 29 November 2007 (Pages 1 - 10)
3. Public Speaking
4. To receive declarations of interest from Members
5. Report from the Leader of the Council
6. Reports from Portfolio Holders
7. Questions to Leader and Executive Members
8. Review of Licensing Policy (Pages 11 - 52)
Report of Acting Environmental Health Team Leader

9. Environmental Health Enforcement Policy (Pages 53 - 110)
Report of Head of Planning and Environmental Health
10. Affordable Housing (Pages 111 - 120)
Report of Housing Strategy Manager
11. Bond Scheme (Pages 121 - 128)
Report of Housing Options Manager
12. Prevention Fund (Pages 129 - 136)
Report of Housing Options Manager
13. Correspondence
14. Conferences
15. Common Seal
16. Exclusion of Public and Press
To RESOLVE:

' That under Section 100A of the Local Government Act 1972, the Public and Press be excluded from the meeting for the following item of business on the grounds it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.'
17. Review of Community Facilities 'Early Wins' (Pages 137 - 140)
Report of Community Development Manager

THE DISTRICT COUNCIL OF CHESTER-LE-STREET

Report of the meeting of Council held in the Council Chamber, Civic Centre, Newcastle Road, Chester-le-Street, Co Durham, DH3 3UT on Thursday, 29 November 2007 at 6.00 pm

PRESENT:

Councillor A Humes (Chairman)

Councillors

A Turner	W Laverick
G Armstrong	M D May
S Barr	P H May
J W Barrett	P B Nathan
L E W Brown	M Potts
R Court	J M Proud
G K Davidson	D L Robson
Greatwich	M Sekowski
R Harrison	J Shiell
S A Henig	T J Smith
A K Holden	D Thompson
C J Jukes	A Willis

Officers: R Templeman (Chief Executive), L Chambers (Director of Resources), T Galloway (Director of Development Services), J Henderson (Head of Revenues and Benefits), C Potter (Head of Legal and Democratic Services), S Reed (Development and Building Control Manager), P Stephens (Acting Director of Community Services), A Swinney (Head of Organisational Development) and C Turnbull (Democratic Services Officer)

84. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors L Ebbatson, MJ Gollan, D Holding, K Potts, TH Harland, SCL Westrip and F Wilkinson.

85. TO CONFIRM THE MINUTES OF THE PREVIOUS MEETING

The minutes of the proceedings at the meeting of the District Council held on 25 October 2007 copies of which had previously been circulated, were submitted.

The Council RESOLVED:

“That the minutes be confirmed as a correct record.”

The Chairman proceeded to sign the minutes.

86. PUBLIC SPEAKING

No requests had been received from members of the public to speak at the meeting in accordance with the Council's agreed policy.

87. TO RECEIVE DECLARATIONS OF INTEREST FROM MEMBERS

There were no declarations of interest from Members.

88. REPORT FROM THE LEADER OF THE COUNCIL

Councillor SA Henig, Deputy Leader, advised of two items he wished to raise in the Leader's absence:

Head of Organisational Development

Councillor Henig advised it was the last meeting of the Council that the Head of Organisational Development would be attending prior to her leaving the Council's employment. On behalf of the Council he thanked her for the work she had done and wished her well for the future.

Local Government Reorganisation

Councillor Henig reported receipt of the second draft Statutory Instrument containing implementation proposals for the new Unitary Council to operate from April 2009, that was expected to go through Parliament in the following two weeks and come into effect in January 2008.

Councillor Henig drew attention to four specific items included in the draft:

- i. Elections for the new Council would be held in May 2008
- ii. An Implementation Executive would be formed to operate until the fourth day after the May 2008 elections. The constitution would be all of the Leaders of the District and Borough Councils in the County plus 10 County Councillors and would, in effect, act as the Executive to formulate an Implementation Plan. Following the election the Executive of the new County Body would take over.
- iii. Overview and Scrutiny referred to in the draft.
- iv. Parish Council elections will be delayed until 2013 to coincide with the new Council elections.

The Chief Executive advised that the new Council to be elected in May 2008 would form the new Unitary Council in April 2009 and the current District and Borough Councils would be abolished at that time. In the lead up to the formation of the new Unitary Council there would be a general duty to co-operate. The Judicial Review to be taken by Shrewsbury and Atcham would be in January 2008 with the outcome being expected in March 2008.

Councillor LEW Brown enquired whether all Councillors elected in May 2008 would serve as the Executive.

The Chief Executive advised that the new Council would establish its own set up to run the political structure and officer structure.

Councillor P Nathan enquired why the Parish Council elections would be delayed when Councillor Henig advised that the draft was not specific but it was usual for Parish Council elections to be linked with principal Council elections.

Councillor W Laverick commented that a large area of the District was not served by a Parish Council and that Parish Councils throughout the County area varied in size. He considered urgent attention should be given to that area.

The Chief Executive advised the matter of stakeholder engagement had been raised at a joint Officers' meeting. He suggested that community views could be obtained to help influence the outcome of the review.

Councillor Henig commented that the questions raised highlight the weakness in the County Council's submission.

89. REPORTS FROM PORTFOLIO HOLDERS

a. Resources and Value for Money

There was no report from Councillor SA Henig

b. Regeneration and Strategic Planning

Councillor CJ Jukes reported on the following matters:

- The switch-on of the Christmas lights in the Town Centre took place on Saturday 24 November.
- He had attended two meetings of the Pelton Fell Neighbourhood Regeneration Panel Board during the last month.
- The Town Centre Master Plan was launched earlier in the day.
- On behalf of the Council he had signed the Filming Friendly Partnership Charter that committed the Council to working in partnership with Northern Film and Media to make the North East a film friendly region. He thanked the Officers and the Chief Executive's team for their involvement.

c. Community Engagement and Partnership

Councillor S Barr reported on the following matters:

- Feedback following the IIP success indicated that the Council had received one of the best scores. He extended congratulations to all concerned.

- Continuous Progress Improvement
- Performance and Improvement
- Audit Commission Direction of Travel
- Community Engagement and Neighbourhood Development
- 360% Appraisal and Member Development
- Member Training Programme
- Anti Poverty Working Group
- Review of ICT Strategy
- Introduction of modern.gov report, agenda and minute system in Democratic Services.
- E gov Partnership meeting
- Best wishes to the Communications and Public Relations Manger for a speedy recovery

d. Neighbourhood Services

There was no report from Councillor SCL Westrip.

e. Health and Wellbeing

Councillor M Potts reported on the following matters:

- Careline call-out services was back in-house
- Healthy Horizons Programme
- New Leaf Project
- Communities for Health Grant
- Crime in Chester-le-Street – Criminal damage was the most reported.
- She had been nominated to attend the 'Fresh' Conference

90. QUESTIONS TO LEADER AND EXECUTIVE MEMBERS

There were no questions for the Leader or Portfolio Holders.

91. TO ACCEPT THE REPORT OF THE AUDIT COMMITTEE HELD ON 4 OCTOBER 2007

The Council RESOLVED:

“That the report of the meeting of the Audit Committee held 4 October 2007, copies of which had previously been circulated, be accepted.”

92. REPORT OF APPOINTMENTS PANEL HELD 8 NOVEMBER 2007

Prior to consideration of the item, the Head of Revenues and Benefits left the meeting.

The report of the Appointments Panel held 8 November 2007 that gave consideration to changes to the senior management structure of the Council

and made recommendations thereon, was submitted, copies of which had previously been circulated.

Councillor SA Henig introduced the item and spoke in support of the recommendations.

Councillor S Barr proposed, seconded by Councillor L Armstrong, that the recommendations be approved.

The Council RESOLVED:

“1. That the revised responsibilities and designation of Director of Corporate Services and the appointment of the Assistant Chief Executive to the position, be approved.

2. That the appointment of the current Deputy 151 Officer to the position of 151 Officer and the appointment of a new Deputy 151 Officer, be approved.

3. That the Chief Executive be authorised to continue with the appointment process for the acting up arrangements in the Resources Directorate and Regeneration Section.

4. That part of the savings (with a ceiling of £50,000 in any one year) be specifically earmarked for the Chief Executive to use as appropriate to procure specialist expertise that may be necessary to support the Council over the following 12 to 18 months. The use of the fund to be subject to agreement with the Leader/Deputy Leader of the Council.

5. That the net annual revenue savings to be generated by the new arrangements be utilised to address budget pressures in 2007/8 and 2008/9.”

The Chief Executive advised that following an interview process the following acting up arrangements would operate with immediate effect:

- Acting Head of Resources – Jayne Henderson
- 151 Officer – Ian Herberson
- Acting Manager for Regeneration – Leila Dawson
- The Corporate Management Team to meet with the Corporate Support Team on a monthly basis.

93. REVIEW OF POLLING DISTRICTS/POLLING PLACES/POLLING STATIONS

Consideration was given to the report of the Electoral Arrangements Advisory Group held 8 November 2007 that undertook a review of Polling Districts, Polling Places and Polling Stations, and made recommendations as detailed on the schedule circulated with the report.

The Democratic Services Officer introduced the report and advised that following consideration of comments received during the consultation period, an additional Polling Station located in the Communal Room at Lambourne Close, Bournmoor was recommended. He further advised of the recommendation to amalgamate Polling Districts Z1 and Z2 to create Polling District Z.

Councillor PH May commented that the Rickleton area in the North Lodge Ward previously had a Polling Station located in a Mobile Unit and queried why the recommendations did not include this provision.

The Democratic Services Officer advised that a Mobile Unit had previously been sited in the car park area at Washington Hospital but that space was no longer available and efforts to secure a suitable alternative location had been unsuccessful.

Councillor JW Barrett proposed, seconded by Councillor L Armstrong, that the recommendations of the Advisory Group be approved.

The Council RESOLVED:

“1. That the review of Polling Districts, Polling Places and Polling Stations undertaken by the Electoral Arrangements Advisory Group be supported.

2. That the schedule detailing Polling Districts, Polling Places and Polling Stations following the review, incorporating a new Polling Station in the Communal Room at Lambourne Close, Bournmoor, and the amalgamation of Polling Districts Z1 and Z2 to form Polling District Z, be agreed.”

94. COUNCIL TAX BASE 2008 - 2009

Consideration was given to a report from the Head of Revenues and Benefits on the calculation of the Council Tax Base for the financial year 2008/2009.

The Head of Revenues and Benefits and the Director of Resources both spoke to the report.

Councillor P Nathan requested an explanation of the inclusion of 33.1 in the tax base as referred to in paragraph 6.1(c) of the report. The Director of Resources advised that it was a complex matter and she would provide a written explanation to Councillor Nathan.

Councillor R Harrison proposed, seconded by Councillor S Barr, that the recommendations in the report be approved.

The Council RESOLVED:

“1. That the reduction in discount on second homes from 50% to 10% be confirmed.

2. That in accordance with the Local Authorities (Calculation of Tax Base) Regulations 1992, as amended, the amount calculated by Chester-le-Street District Council as its Tax Base for 2008/2009 be 17,086.65.
3. That the inclusion of 33.1 in the Tax Base for the reduction in discount on second homes from 50% to 10% be noted.
4. That the collection rate be set at 98.5%.
5. That it be noted that the 2008/2009 Tax Base does not take account of any reduction in the discount on long term empty properties.”

95. PRIVATE SECTOR HOUSING REVIEW

Consideration was given to a report from the Head of Planning and Environmental Health on a review of the Council’s Private Sector Housing Renewal Policy.

The Director of Development Services introduced the report.

Councillor PH May enquired how the Council advertised throughout the District the availability of grant funding.

The Director of Development Services advised that the Home Improvement Agency undertook advertising and promotion of the scheme.

Councillor L Armstrong proposed, seconded by Councillor S Barr, that the recommendations in the report be approved.

The Council RESOLVED:

- “1. That the review of the Private Sector Housing Renewal Policy be approved.
2. That further capital funding bids for the financial years 2008/9 and 2009/10 be made to the Capital Working Group in order to meet the Council’s target of 70% vulnerable households living in decent homes by 2010.
3. That the amendment to the Waiting List System as detailed in paragraph 5.4 of the report be agreed.
4. That Security Grants be removed from the Policy but their inclusion be reconsidered as part of a future review if an appropriate scheme is developed.
5. That the existing mechanisms for policy review as well as performance standards and monitoring be continued.

6. That Officers be authorised to participate in the development of the Regional Loans Scheme that will be the subject of a future report to Members.”

Councillor P Nathan abstained from voting on the recommendations.

96. CODE OF GOOD PRACTICE

Consideration was given to a report from the Head of Planning and Environmental Health seeking approval to the Code of Good Practice for Development Control that sets out principles to guide Members in dealing with planning.

Councillor GK Davidson advised that the Code was a working reference for Planning Committee Members and of general information for all Members.

The Development and Building Control Manager advised that in-house training would be provided for Members in 2008.

Councillor GK Davidson proposed, seconded by Councillor R Harrison, that the recommendation in the report be approved.

The Council RESOLVED:

“That the Code of Good Practice for Development Control be approved.”

97. DISTRICT PLAY STRATEGY

Consideration was given to a report from the Leisure Services Manager seeking approval to a play strategy for the District that would replace the existing play areas strategy.

The Director of Resources introduced and spoke to the report.

Councillor PH May congratulated the Director of Development Services and the Leisure Services Team on production of the strategy and for the new play area provided at Northlands, Chester-le-Street.

Councillor L Armstrong proposed, seconded by Councillor D Robson, that the recommendation in the report be approved.

The Council RESOLVED:

“That the play strategy for the District be approved.”

98. CORRESPONDENCE

There were no items of correspondence.

99. CONFERENCES

There were no invitations to attend Conferences.

100. COMMON SEAL

The Head of Legal and Democratic Services advised that a composite list of documents sealed since the October 2007 meeting of the Council would be reported to the next meeting.

101. CHAIRMANS ANNOUNCEMENTS

The Chairman of the Council, Councillor Allen Humes, made the following announcements:

- Charity Night at Sacriston – Thanks to local Members for the arrangements
- Councillor PH May had advised he would be donating a cheque to the Chairman's Charity appeal in lieu of Christmas cards to all Members.
- The Civic Carol Service would be held on 19 December 2007 at Perkinsville Methodist Church.
- As the next meeting would be the last meeting prior to Christmas a buffet would be available following the meeting.
- Congratulations to the Head of Organisation and Development on her new appointment.

The Chief Executive advised it would be necessary to convene a Special Meeting of the Council during December to deal with Stock Transfer matters.

The meeting terminated at 7.15 pm

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Chester-le-Street
District Council

Report to:	Council
Date of Meeting:	20 December 2007
Report from:	Acting Environmental Health Team Leader
Title of Report:	The Licensing Act 2003 – Review of Statement of Licensing Policy
Agenda Item Number:	

1. PURPOSE, SUMMARY AND RECOMMENDATIONS

- 1.1 The purpose of the report is to ask Members to consider a review of the Council's Statement of Licensing Policy made under the Licensing Act 2003.
- 1.2 The Licensing Act 2003 (the Act) requires the Council to publish a Statement of Licensing Policy and review it every three years. The first review date is 7 January 2008. A draft revised policy has been produced by Officers. This revised policy has incorporated new guidance and best practice and has been the subject of broad consultation. The consultation raised few points that required significant alteration to the policy. A copy of the revised policy is attached as Appendix A.
- 1.3 Council are recommended to:
 - (i) Consider the summary of consultation comments and responses to them and agree amendments to the policy if required
 - (ii) Agree and adopt a final version of the revised policy.

2. CONSULTATION

- 2.1 The Act outlines a minimum consultation framework consisting of a number of statutory bodies and representatives of the main stakeholders. The Council's consultation exercise far exceeds this requirement. A list of the consultees is provided at page seven of the policy, in total over 200 individual consultations were issued. The consultation was in the form of a questionnaire. A summary of the replies and responses to them is

attached as Appendix B. Public consultation was strengthened via the use of a focus group consisting of representatives from local residents groups.

3. CORPORATE PLAN AND PRIORITIES

- 3.1 The Licensing Policy contributes directly to priority five and eight of the Sustainable Community Strategy for Chester-le-Street and therefore, contributes to priority two of the Corporate Plan.
- 3.2 Priority five, to make the District a safer place to live, work and visit; to further reduce crime and disorder and increase public reassurance.
- 3.3 Priority eight, to champion the development and promotion of culture, leisure, sport and the arts in contributing to the well being of residents and local communities.

4. IMPLICATIONS

4.1 Financial Implications and Value for Money Statement

- 4.1.1 The costs of consultation and publication of the revised policy will be met from existing budgets.
- 4.1.2 The report has few value for money implications. The use of a focus group to improve public consultation has significantly reduced the cost of the overall consultation process. Previous consultation exercises had used multiple public meeting and newspaper adverts with little significant return.

4.2 Legal

- 4.2.1 The Licensing Act 2003 s.(5) and Licensing Act 2003 (First Appointed Day and Personal Licences Transition Period) Order 2004 No 1739 create a regime whereby the Council was required to publish its Licensing Policy 7 January 2005 and review it every three years.

4.3 Personnel

- 4.3.1 There are no immediate personnel implications arising from this report.

4.4 Other Services

- 4.4.1 There are no significant implications on other services arising from this report.

4.5 Diversity

- 4.5.1 A Diversity Impact Assessment (DIA) is scheduled to be carried out as part of a programme of Environmental Health DIA's in early 2008. Any significant findings will be reported back to Council.

4.6 Risk

- 4.6.1 The policy fulfils two principal purposes; firstly it provides advice to businesses and the public on the Council's overall position. Secondly, it provides a decision making framework for the Council via its Licensing Committee to exercise its quasi judicial functions under the Act.

- 4.6.2 As such, the Policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. A failure to achieve the correct balance could lead to a policy, which was either overly prescriptive and thus open to challenge from businesses. Or alternatively, ineffective in controlling businesses and thus fails to protect local residents or promote the licensing objectives effectively.

- 4.6.3 The Policy must also effectively integrate and contribute towards a broad range of other policies and strategies.

4.7 Crime and Disorder

- 4.7.1 The Council's licensing policy forms a central part of the control and regulation of the evening and night time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder.

- 4.7.2 The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

4.8 Data Quality

- 4.8.1 Every care has been taken in the development of this report to ensure that the information and data used in its preparation are accurate, timely, consistent and comprehensive. The Council's Data Quality Policy has been fully complied with in producing this report.

4.9 Other Implications

- 4.9.1 There are no other implications arising from this report.

5. BACKGROUND, POSITION STATEMENT AND OPTION APPRAISAL

- 5.1 The Licensing Act 2003 came into effect in November 2005 and represented the first major reform of alcohol licensing for 40 years. As well as transferring the responsibility for alcohol licensing from Magistrates' to Local Authorities, the Act amalgamated six separate licensing regimes. A single piece of legislation now regulates; the sale and supply of alcohol, regulated entertainment, late night refreshment, cinemas and theatres.
- 5.2 The Act required the Council to consult on, publish and review triannually, a statement of licensing policy. Chester-le-Street's policy was published in January 2005 and is therefore due for review. The review is required to follow a statutory process. However, the Council's consultation will significantly exceed these requirements.
- 5.3 Officers have produced a draft revised Statement of Licensing Policy that is attached as Appendix A. This has been produced with due regard to new national guidance by the Local Authorities Coordinators of Regulatory Services (LACORS) and new guidance produced by Department of Culture Media and Sport under s.182 of the Act.
- 5.4 A broad range of bodies has been consulted on the draft revised policy. A full list is shown in the Policy. Additionally, a focus group was arranged for representatives of local residents groups on 22 November 2007.
- 5.5 The results of the consultation along with a discussion of them and proposed changes to the policy are attached as Appendix B.
- 5.6 Executive considered the report on 3 December 2007 and recommends to Council that the draft Revised Statement of Licensing Policy attached as Appendix A be adopted.

6. RECOMMENDATIONS

- 6.1 Council are recommended to:
- (i) Consider and adopt the attached draft Revised Statement of Licensing Policy attached as Appendix A.

7. BACKGROUND PAPERS / DOCUMENTS REFERRED TO

- 7.1 The Licensing Act 2003, Guidance issued under section 182 of the Licensing Act 2003 (Department for Culture Media and Sport 2007) and LACORS Best Practice Framework for review of Licensing Policy Statements.

Liam J Howley
Acting Environmental Health Team Leader
5 December 2007
1.0

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liamhowley@chester-le-street.gov.uk

Consultation Responses (Questionnaires)

Consultee	Adequately deals with Crime & Disorder	Adequately deals with Public Safety	Adequately deals with the Prevention of Public Nuisance	Adequately deals with Protection of Children from Harm	Revised policy appropriate for next 3 years	Balance between needs of local businesses and local residents	Further revisions to the Licensing Policy Statement	Further comments
Roseberry Sports & Community College	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Costcutter – Garden Farm Estate	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Chester-le-Street Golf Club	Yes	Yes	Yes	Yes	Yes	Yes	No	CLS golf club is in a remote and quiet location of the town and is far from public nuisance etc. * ⁽¹⁾
Café Neena's	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Trading Standards	Yes	Yes	Yes	Several months with applications have rarely indicated the position of cigarette vending machines and/or gambling machines. This may be a deliberate ploy as to prevent this service submitting objections thus delaying the licensing process* ⁽²⁾	Yes	Yes	No	No
Pelton RAOB Club	Yes	Yes	Yes	Yes	Yes	Yes	No	No
The Plough Inn	Yes	Yes	Yes	Yes	Yes	Yes	No	No

Lumley Castle Hotel	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Chester-le-Street Central Residents Association	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Osborne WMC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Ainsworth's – Fencehouses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Relton Terrace WMC	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No	No
Ian McKay – Hackney Carriage Proprietor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
John Biggs – Hackney Carriage Proprietor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Burnside WMC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Nigel Jones - Equity											A quick observation: I have read dozens of these from other Local Authorities. Often licensable activity is regulated as something to be curbed to prevent unpleasant consequences. Your policy document is refreshing in that it is positive in seeing an opportunity to encourage culture and entertainment and recognises the values of the WMC's. In particular, para 1.6,1.7, 1.8,2.42,2.44,2.50,6.1 are helpful.
Alcoholics Anonymous	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment	No Comment
Newfield and Pelton Lane Ends Tenants and Residents Association	Insufficient attention has been given to the impact of alcohol bought at off licences or in	Yes	Staggered closing times and the creation of a second taxi rank have both helped to reduce incidences of	Yes – Though it would be beneficial to licensed premises and to other customers if	Yes – though see earlier comments about off licences and supermarkets *(6)	Yes	No	No Comment	No	No	How will creation of single unitary authority and the abolition of local district councils and the need to maintain a licensing policy manifest itself in terms of responsibility and

Kevin Jones MP – Member of Parliament for North Durham	supermarkets e.g. access by underage drinkers, noise/rubbish, incidents of anti-social behaviour in streets / parks etc *(3)		nuisance/violence at weekends. However, re- siting the new taxi rank to the side road adjacent to the model shop etc would alleviate traffic congestion and make it easier for pedestrians. Also queue Marshals as used in Newcastle, Sunderland etc (funded by licensees and Council) would help further to alleviate problems *(4)	parents were reminded that how their children conduct themselves whilst on such premises is their responsibility *(5)				accountability? Further, what structure / organisation will be in place to ensure councils can deliver this service? *(7)
	Yes	Yes	The policy as stated is too vague. More specific measures to respond to noise and nuisance should be included. Also no mention is given to the capacity of Chester-le- Street town centre in terms of licensed premises. Many public nuisance issues arise from having too many bars / premises in one area. *12	You may wish to include university / student I.D. cards as a form of acceptable I.D. as more and more Durham university students are now living in the District. *13	Same reasons as previous comment	Yes	Item 2.39 of the statement is very weak. It suggests Chester-le- Street DC cannot impose conditions on a licence unless representations are received from Police, County Council, or other bodies. This is inadequate – Chester-le- Street DC as Licensing Authority should also have the power to impose conditions where they	No

											themselves identify a problem or concern. *14	
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Consultation Responses (non questionnaire)

CONSULTEE	COMMENTS
Chairman of the Licensing Statutory Committee	<p>1. The Licensing Policy balances the needs of businesses, voluntary and community groups equitably.</p> <p>2. The Licensing Policy provides an effective framework for licensing decisions.</p> <p>3. The Licensing Policy provides an effective framework in which to conduct reviews.</p> <p>4. The Licensing Policy provides sufficient, relevant information to applications.</p> <p>5. The Licensing Policy is accessible and useable, however, there is a need to investigate into a more adequate consultation process with residents / members of the public and for the need to investigate the possibility of informing Members weekly of any applications received. *(8)</p>
Development and Building Control Manager	<p>1. I would suggest the following alternative wording for paragraph 2.48: <i>“The law requires that the relevant Planning and Licensing regimes must operate to different agendas, assessing, as material considerations, separate issues. This ensures that licensing applications are not merely a re-run of planning applications (and vice versa). However, the Council is committed to high standards of customer care, including as part of this the provision of a high quality one stop shop service for customers seeking advice on both planning and licensing issues. As such officers will always endeavour to work together to provide meaningful, joined up advice to customers seeking advice on a matter which raises both Licensing and Planning issues”</i> *(9)</p> <p>2. Paragraph 2.48 – page 13 – line 2. I'm not too sure about the reference to 'decisions made by the Licensing Department will be reported back to Planning Committee on a regular basis'. As you will appreciate this does not occur at present; and moreover I am not too sure what this would achieve. *(10)</p> <p>3. Page 24 – Our consultation address should be amended to 'Development and Building Control Manager'. *(11)</p>
Sgt Tim Robson – Durham Constabulary	<p>This is a comprehensive document that addresses effectively the changes in the licensing economy and it encompasses all relevant issues impacting on the legislation. The police do recommend that consideration should be given by licence holders impacting on the night time economy and in increasing the populous in town centres through the operation of their establishments to consider the use of taxi marshalls to address the impact on the objectives in the immediate vicinity of premises especially those retailing alcohol.</p>
British Beer and Pub Association	<p>1. Paragraph 2.33 - Proof of Age cards. Please note that the Citizen Card is but one of several PASS accredited cards, all of which are supported by the Government. It is therefore unnecessary to make specific reference to this particular card.</p> <p>2. Enforcement - We would welcome recognition at para 7.5 of the Hampton principles of inspection and enforcement in this section, which include the following:</p> <ul style="list-style-type: none"> • No inspection should take place without a reason <p>Regulators should recognised that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection</p>
Focus Group Comments	Please see attached

Proposed Responses to Consultation Comments

Comment No	Discussion	Suggested amendment to policy
1	Comment not relevant to policy	None
2	The Council are unable to insist on this as the information to be supplied on plans is specified in legislation	Policy to be amended to encourage applicants to specify location of cigarette vending machines.
3	Applications for retail outlets such as supermarkets are subject to the same process as applications for premises such as public houses. Operating schedules are still expected to show appropriate control are in place. Licensing Committee can impose additional conditions on licenses at hearing or on review	None
4	The location of the Front Street (south) taxi rank has recently been the subject of a detailed review. No alternative locations are suitable and the local Police Intelligence Cell confirmed no significant rise in reported crime since the rank was commissioned.	The terms taxi marshals be added to the general list of suggested control strategies listed at 2.9 of the Policy
5	The overall responsibility for all persons on a premises including children is the responsibility of the Designated Premises Supervisor Licensing Committee can impose appropriate additional conditions on individual licenses at hearing or on review	None
6	Dealt with under point 3	None
7	Whilst a valid question the Council is not yet in a position to answer these issues	None, but a written reply to Residents Association
8	The Act specifies the consultation process to be adopted for various different kinds of application. Significant variation from this process could lead the Authority open to legal challenge from applicants	None but future application for premises licenses or variations to be displayed on the Council's website for the duration of the consultation period and notified to all Members in confidence
9	Alternative wording agreed	Policy amended accordingly
10	Advice appears to be based on Council structures where the Planning Committee is responsible for Planning Policy. As this is not the case in Chester-le-Street the proposed reporting would achieve little.	Policy amended to remove the reporting link between Licensing and Planning Committees
11	Alternative wording agreed	Policy amended accordingly
12	Each application must be dealt with on its own merits. Statutory guidance specifically advises against the implication of blanket conditions covering all premises. The policy states that applicants are expected to identify appropriate control measures in their operating schedule. Licensing Committee also have a pool of model conditions to draw upon should they require it.	None

13	The Policy specifically highlights national identification schemes rather than ad hoc local schemes this is to overcome counterfeit cards.	None
14	The Act does not allow the Licensing Authority to raise relevant representations itself. The Local Authority Environmental Health Noise team and Planning Team are statutory consultees and can therefore raise representations.	None



Chester-le-Street District Council

Draft Review
of Licensing Act 2003
Statement of Licensing Policy

November 2007

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Introduction - The Licensing Act (2003) and Chester-le-Street District

1.1 Chester-le-Street is the business, residential and shopping centre of one of the smallest English Districts. Situated in the northern part of County Durham, between Durham City and Gateshead in Tyne and Wear, the district has a population of 57,000. The area has many attractions, from beautiful countryside to a rich heritage.

1.2 The District consists of a central conurbation, including a busy town centre and market area and a number of outlying villages. Historically, the town was dominated by the coal industry, however, with the decline of traditional industry, some areas are now experiencing socio-economic problems. Nationally and internationally recognised leisure and tourist attractions such as Beamish Museum, Durham County Cricket Club and the Riverside development together with historic landmarks such as Lumley and Lambton Castles contrast with some of the most deprived wards in England. The table below outlines the current age profile of the population in the district.

Population Profile of Chester le Street District by Age

Age Band	Chester-le-Street District
0-14	9,000
15-24	6,000
25-34	5,700
35-44	8,900
45-54	7,500
55-64	7,100
65+	9,000
Total	53,200

1.3 The towns close proximity to the A1(M) and the re-instatement of the railway station on the main east coast line establish Chester-le-Street firmly into both regional and national transport infrastructures.

1.4 The Council believes that in partnership with businesses, residents and responsible authorities that a healthy equilibrium has been achieved of the interests of the partners. Businesses have benefited from less red tape and more flexibility (e.g. increased opening hours and diversification of forms of entertainment) than the previous regime but only by working hard towards achieving all four of the licensing objectives. This has led to residents and visitors benefiting by the responsible authorities requiring higher standards for new and refurbished premises through schemes such as increased acoustic insulation, CCTV and membership of the Pubwatch initiative.

1.5 Many of the well established licensed premises have undergone extensive refurbishment to the benefit of all, whilst new establishments have been created, raising standards and augmenting the local economy.

1.6 The Council has continued to encourage diversity of entertainment and a number of premises throughout the district provide facilities for live music on a limited scale. On a much greater scale, international events continue at the Riverside both in terms of International Sporting Events and musically in the form of internationally renowned acts.

1.7 The recent licensing of the Riverside Park area has laid the foundation for more extensive musical and cultural events to be held and the planned licensing of the newly regenerated Civic Heart will provide a focal point for future cultural events in the town centre.

1.8 Diverse events are already being scheduled through the use of Temporary Event Notices (TENs) at the Civic Heart and indeed their use throughout the wider district has seen such diverse events as boxing tournaments, ceilidhs, rowing regattas, jazz quartet, storytelling, swimming galas, ale festivals and the Durham County Council Elements Touring Theatre Scheme in the outlying areas of the district. To date, over one hundred TENs have been received by the Council since they came into use in November 2005.

1.9 The Council recognises, however, that not all of the changes created by the Act have been wholly beneficial. In particular, the new regime has highlighted the large number of centralised alcohol and fast food establishments in close proximity to residential areas and the resultant public nuisance that can be caused. Working towards the correct balance of business and resident's needs is an ongoing task involving all key partners, including monitoring and enforcement by the Licensing Team and its relevant partners.

1.10 From a diversity point of view the Council also recognises that the District still lacks a permanent bingo hall, theatre or cinema, though they do exist on a smaller or temporary scale.

1.11 The highest concentration of licensed premises is found in the town centre. This is characterised by a high density of residential, commercial and leisure premises in close proximity. The majority of existing licensed premises are traditional in origin and were constructed in an era before the development of the night-time economy and the associated modern drinking culture. The table below outlines the breakdown of licensed premises by type.

Number of Alcohol Premises Licences	Number of Non Alcohol Premises Licences	Number of Non Alcohol Premises Licences (Vehicles)	Number of Club Premises Certificates	Number of Personal Licences	Number of TENs with Alcohol	Number of TENs without Alcohol
119	26	2	22	288	75	32

1.12 In recent years, the town centre has experienced a significant development in its licensed premises sector. The south end of the town centre has seen particularly rapid development. Between 2002 and 2004 planning permission was granted for a number of licensed premises. These developments could see the overall capacity of town centre licensed premises rise by over 2,000.

1.13 The Licensing Act 2003 (the Act) intends to create a modern, responsive regulatory regime. It ensures that premises that are causing problems within the community can be dealt with appropriately. But it also provides that businesses and community activities that benefit and enhance people's lives by providing important opportunities for the enjoyment of leisure time will be afforded a lighter touch.

1.14 Prior to the Act, the Council believes it had already developed a flexible and progressive attitude towards licensing. This was clearly demonstrated in the months preceding the implementation of the Act. The District not only saw an overall expansion within the night-time economy but also a substantial move towards staggered closing times with a number of premises benefiting from extended hours.

1.15 The Council's policy is outlined at 2.38-2.45. This document expands upon the policy and how it will be implemented in practice. In particular, it will detail how the Council will use the discretionary powers the Act affords. It does not give the detail of specific procedures, nor does it outline the procedures to be followed in situations where the Council is not afforded discretion. In these instances, the information is contained in other documents including:

- The Act itself / statutory instruments made under it
- The guidance issued by the Department for Culture, Media and Sport under section 182 of the Act

1.16 The Review of the Statement of Licensing Policy will be formally adopted on 20 December 2007 and will come into force 7 January 2008.

BACKGROUND

The Licensing Act 2003

2.1 The Licensing Act 2003 (the Act) received Royal Assent in July 2003 and the Provisions of the Act came into force on 7 February 2005. The Act requires Chester-le-Street District Council (the Council) to carry out its functions under the legislation with a view to promoting four licensing objectives:

- a) The Prevention of Crime and Disorder
- b) Public Safety
- c) The Prevention of Public Nuisance
- d) The Protection of Children from Harm

2.2 The Council recognises that balancing the interests of owners, employees, customers and neighbours of licensed premises such as pubs, clubs and off-licences will not always be straightforward, but it will always be guided by the four objectives of the Act.

2.3 The Act required the Council to prepare a statement of licensing policy that stated its position in relation to its duties under the Act. The Council welcomed the new powers granted to it by the Act and has used them, in consultation with responsible authorities, licensees and with the general public, in a socially responsible way. The original Statement on Licensing Policy was published in January 2004 and this revised policy was to be published in January 2008.

2.4 This revised policy, as with the original policy, covers the following licensable activities:

- a) The licensing of individuals for the sale of alcohol (Personal Licence)
- b) The licensing of premises for the sale of alcohol, provision of regulated entertainment or late night refreshment (Premises Licence)
- c) The supply of alcohol or the provision of regulated entertainment to certain clubs (Club Premises Certificates)
- d) The permitting of certain licensable activities on a temporary basis (Temporary Event Notices)

2.5 The Council recognises that individual licensees and others in possession of relevant authorisations cannot be held responsible for incidents that do not occur in the vicinity of their licensed premises. In cases of dispute the question of "in the vicinity" will ultimately be decided by the courts. Nonetheless, the Council also believes that a responsible attitude towards issues such as drinks promotions, training of bar staff and proper management of premises can have a significant effect on the behaviour of patrons once they have left the premises.

2.6 This revised Statement of Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to

have each application considered on its individual merits. It does not seek to override the right of any person to make representations on an application or seek a review of a Licence or Certificate where provision has been made for them to do so in the Act. In all cases of doubt arising from the contents of this policy and the governing legislation, the overriding consideration will be towards the governing legislation.

Consultation Process

2.7 In preparing this statement the Council has consulted with and considered the views of a wide range of people and organisations (see list below). In addition to this, a focus group was held on 20 November at the Civic Centre to which all formally constituted residents' groups in the area were invited with local councillors and officers. The consultation document was also posted on the Chester le Street District Council website (www.chester-le-street.gov.uk.)

Review Consultees 2007

- a) Durham Constabulary;
- b) County Durham and Darlington Fire and Rescue Service;
- c) Existing Premises Licence holders;
- d) Existing Club Premises Certificate holders;
- e) Global Online Assessment for Learning (GOAL)
- f) British Institute of Inn Keeping (BIIB)
- g) British Beer and Pub Association
- h) BEDA (Bar Entertainment & Dance Association)
- i) Representatives of Residents in the Council area (i.e. Community and Residents Associations)
- j) Representatives of businesses (inc. Pubwatch)
- k) Equity
- l) Chester-le-Street District Branch of the Parish and Town Councils Association
- m) Security Industry Authority
- n) Durham County Council (Trading Standards / Tourism / Education / Social Services / Planning / Highways)
- o) Alcoholics Anonymous
- p) Other Council Departments (Planning, Community Safety)
- q) Local MP and MEP's
- r) Durham and Chester-le-Street Primary Care Trust
- s) All Chester-le-Street District Councillors

Chester-le-Street and the Night-Time Economy

2.8 The term night-time economy incorporates traditional matters such as alcohol consumption and the general infrastructure of the licensed sector and its associated problems, such as alcohol related crime and anti-social behaviour. However, it also includes a range of broader issues including late night transport,

entertainment including non-alcohol related activities, food establishments and policing.

2.9 The night-time economy is complex and its regulation depends on many factors. Whilst the overall number of premises and general capacity are important, so too are the management of both individual premises and the night-time economy as a whole. Therefore businesses have been and will continue to be expected to make appropriate use of control strategies such as closed circuit television (CCTV), door supervision, bar staff training, taxi marshals, paid for policing, drug and violence policies. They will also be expected to recognise and manage the impact that amplified music, drinks promotions and dispersal of patrons leaving the premises will have on the local environment.

2.10 The night-time economy in the district benefits from a town centre CCTV system, efficient taxi service, Pubwatch scheme and a dedicated Police Licensing Unit. The Council, in partnership with other relevant agencies, will continue to monitor appropriate provisions relevant to the night-time economy. The Council recognises the critical role other agencies, in particular the Police, play in the control and management of this issue. The Council seeks to create an environment where all businesses and agencies are working together to create a safe, diverse and sustainable night-time economy, where individual and collective efforts can work synergistically.

2.11 The Council recognises that the Act does not just apply to the town centre. It must also administer the sale of alcohol and provision of regulated entertainment throughout the entire district. The busy town centre area contrasts with the more rural and decentralised areas of the district that experience different issues. These do not have the high concentrations of licensed premises found in the town centre, however, noise and alcohol related crime and anti-social behaviour can, and still do occur.

Chester-le-Street and the Licensing Objectives Prevention of Crime and Disorder

2.12 In considering all issues the Council recognises the stringent powers the Act affords as well as the broad freedom and flexibility it offers. Whilst seeking to work in partnership with businesses, the Council will not hesitate to take action against those that are not making a reasonable effort to promote the licensing objectives.

2.13 Licensed premises, especially those offering late night entertainment, alcohol and refreshment can be a source of crime and disorder problems. Therefore the Council will have particular regard to the likely impact of crime and disorder related to licensing within the District, particularly when considering the location and impact of any application.

2.14 In accordance with 'the prevention of crime and disorder' objective, applicants will be expected to demonstrate in their Operating Schedule that sufficient measures have been identified, implemented and maintained to address crime and disorder in the 'vicinity' of their premises. Controls must be relevant to the style and characteristics of the proposed activities.

2.15 The Council recognises that only a minority of customers will behave badly and this Policy Statement cannot address issues relating to behaviour of individuals or groups unless they are in the immediate vicinity of the applicant's licensed premises. However, applicants should note that this Policy Statement is an integral part of a coordinated approach to reducing crime and disorder and should therefore demonstrate in their Operating Schedules, and day-to-day operations, how they participate in promoting and satisfying local policies and initiatives including local crime prevention strategies. The term 'vicinity' can only be defined when having regard to the individual circumstances of an application and also having due regard to any objections or observations received from responsible authorities or interested parties wishing to minimise such risks.

Public Safety

2.16 The Public Safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. The Health and Safety at Work etc Act 1974 (and associated secondary legislation/guidance) and Fire Safety Legislation will in most instances be the primary mechanism for securing adequate standards of public safety. However, some premises may not be subject to the provisions of this legislation. Additionally, licensed premises can present some unique safety risks which are difficult to address via traditional legislation. These can arise because it is often difficult to anticipate peoples' behaviour whilst intoxicated. Conventional approaches to controlling safety risks such as signage and physical barriers may need to be reconsidered. In these instances the Council may impose additional suitable conditions to supplement the existing health and safety law.

2.17 A commitment in the Operating Schedule to higher standards of safety, such as the use of British Standard Specification accreditation for safety measures would be encouraged and positively considered.

2.18 It is essential that premises covered by this Policy Statement are constructed or adapted and operated so as to safeguard users of these premises against these risks.

2.19 The Council will work closely with the Fire and Rescue Service in accordance with the joint enforcement protocol issued by the Fire and Rescue Service. A copy of this document is available from the Licensing Department of the Council.

2.20 The Council will pay particular regard to representations from its Officers as well as from the Fire and Rescue Service and the Police to determine if measures proposed are sufficient to ensure the safety of the public. The Council will not normally grant an application for a licence, or variation, where representations are made by one of these bodies expressing serious concern regarding public safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

2.21 Prior to the determination of an application, an applicant must ensure the Council has been provided with such certificates as are necessary to ensure the safety of the premises. These may include:

- Electrical inspection report certificate
- Fire alarm test inspection report
- Emergency lighting inspection and test report
- Fire fighting equipment
- Flame retardant properties of materials certificate (new premises or upholstery)
- Ceiling certificate (in the case of cinemas)
- Gas safety certificate

2.22 The Council will consider attaching conditions to licences and permissions to promote safety, and these may include conditions drawn from the pool of model conditions, which will be published separately to the Policy Statement.

2.23 To ensure Operating Schedules adequately address these issues, applicants are advised to seek advice from the Health and Safety Officers of the Environmental Health Team at the Council (or the Health and Safety Executive, where appropriate) and the Fire and Rescue Service before preparing their plans and Schedules.

Prevention of Public Nuisance

2.24 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances that can impact on people living, working or sleeping within the vicinity of the premises.

2.25 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have. Accordingly, the Council will expect Operating Schedules to satisfactorily address these issues and provide information as to how the potential nuisances will be prevented.

2.26 The Council will consider attaching conditions to licences and permissions to prevent public nuisance and these may include conditions drawn from the

model pool of conditions which can be found in Appendix D of the Guidance issued under Section 182 of the Licensing Act 2003. (www.culture.gov.uk)

2.27 The extent to which the above matters need to be addressed will be dependent upon the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. In general, the Council will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of public nuisance problems.

Protection of Children from Harm

2.28 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and other individuals accompanying children also have responsibilities.

2.29 Access by children to licensed premises will, generally, be a matter for the business unless the Council considers that conditions are required in order to promote the licensing objective of the “protection of children from harm”. Accordingly, the Council expects Operating Schedules to identify the control measures to demonstrate compliance with this objective.

2.30 The Council recognises the Social Care & Health department of Durham County Council as being competent to advise on matters relating to the protection of children from harm.

2.31 It is obviously not possible to properly anticipate every issue of concern that could arise in respect of children with regard to individual premises. Each application will be considered on its individual merits. However, applicants will be expected to demonstrate, and provide evidence that, suitable controls are in place. Such matters should include proposals or arrangements to prevent children from:

- Acquiring or consuming alcohol;
- Being exposed to drugs, drug taking or drug dealing;
- Being exposed to gambling;
- Being exposed to entertainment of an adult or sexual nature;
- Being exposed to incidents of violence or disorder;
- Being exposed to excessive noise;
- Being exposed to tobacco smoking and its effects;
- Purchasing cigarettes from vending machines;

2.32 In premises where there are Amusement With Prizes (AWP) machines and cigarette vending machines, the Council will expect Operating Schedules to

demonstrate the measures to be taken to prevent access by children in accordance with the Gambling Commission's Gaming Machine Permits Code of Practice available at www.gamblingcommission.gov.uk and to encourage applicants of premises a licence to show both AWP and cigarette vending machines on the plan.

2.33 The Council expects licensees to be able to demonstrate in their Operating Schedule that they have in place satisfactory arrangements to prevent sales of alcohol to children, including a proof of age scheme. The Council recommends that the following documents should be used as proof of age:

- Passport;
- Photo card driving licence
- Proof of Age scheme card (e.g. P.A.S.S. - www.pass-scheme.org.uk)
- Citizen Card supported by the Home Office (details from www.citizencard.net)

The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks which can be found at www.portman-group.org.uk

2.34 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection from exposure to strong language and sexual expletives. In relation to film exhibition premises, a mandatory condition will be applied requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, and the unpredictability of their age and the lack of understanding of danger.

2.35 Provided that there is no risk to children, the Council has no intention of imposing conditions regarding the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee, club, or person who has given a temporary event notice.

2.36 However, applicants/notice givers will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. Such

measures should include the need for the presence of a sufficient number of adult staff to ensure the well being of children during an emergency.

2.37 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include premises:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or where concerns exist regarding underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

POLICY STATEMENT

2.38 The Council continues to welcome the inward investment and town centre regeneration the development of the night-time economy brings. However, the Council will always attempt to safeguard the security and quality of life of residents. The Council expects businesses to promote the four licensing objectives and in doing so identify, implement and successfully manage a full range of control strategies, work in full harmony with all regulatory agencies and have particular regard to their neighbours and the wider environment.

2.39 The Council will consider all applications on their own merits but if no relevant representations are made there is no provision for the Council to impose conditions on a licence other than those volunteered by the applicant. Subsequently, if no representations are made, the Council will issue the licence on the terms sought.

2.40 The Council will monitor and review the operation of the policy where appropriate, above and beyond the minimum statutory requirements. This recognises the fluid nature of the night time economy and the rapid developments that can occur within it.

2.41 If a Responsible Authority identifies or receives any complaint that an area that is suffering problems due to a high concentration of certain types of premises the Council will investigate this matter and if necessary act upon its finding.

2.42 The Council will attempt to use the flexibility afforded by this regime to encourage a diverse range of cultural and leisure activities to avoid creating a mono-culture based on the heavy consumption of alcohol. The Council recognises the need for a greater diversity in the night-time economy to meet the wider expectations of all residents. Thus it will seek to facilitate a more diverse provision of live music, entertainment, street trading, café bars and restaurants. Only conditions strictly necessary for the promotion of the licensing objectives should be attached for activities of this nature and the Council is aware of the need to avoid measures that deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

2.43 To ensure that licensed activities are carried out in accordance with licence conditions and therefore support the licensing objectives, the Council will carry out appropriate monitoring at licensed premises and activities. Where necessary, this will be in conjunction with other relevant agencies.

2.44 Where monitoring indicates enforcement may be necessary, this will be considered and where necessary carried out in accordance with both the Enforcement Concordat and relevant enforcement policies. Such monitoring will include an assessment of whether diverse cultural events are being deterred by the policy and if this is found to be the case, the policy will be reviewed.

2.45 The Council will ensure that there is no unnecessary duplication between licence conditions under the Act and those imposed under other legislation. However, a consequence of this approach is that it may be necessary on occasions to use powers outside of the Act to deal with problems arising from licensed premises and the management thereof.

Integration with other Strategies / Partnership Working

2.46 The Council takes the view that the Act cannot resolve all community problems. However, it will form a cornerstone of its input into the management and regulation of the nighttime economy, as well as being an integral part of the delivery of its key strategies in respect of crime and disorder and anti-social behaviour.

2.47 The Council recognises the important relationship between the Act and other legislation in particular the Crime and Disorder Act 1998 and the Anti-social Behaviour Act 2003 and the essential role partnership working will play in the effective delivery of these key aims. A central partnership will be with the Police, however, the Council appreciates that there are a multitude of other agencies that indirectly impact upon the four licensing objectives.

2.48 Educative measures such as the Safer Clubbing Guide (www.drugs.gov.uk) and Alcohol Harm Reduction Strategy (www.strategy.gov.uk) provide

authoritative guidance. Non-statutory agencies such as the National Proof of Age Standards Scheme, Portman Group and the local Pubwatch scheme provide valuable advice. Other Council departments such as Planning and Environmental Services play important roles both in the development of the night-time economy and in minimising any less welcome aspects of its impact. The law requires that the relevant statutory Planning and Licensing regimes must operate to different agendas, assessing, as material considerations, separate issues. This ensures that licensing applications are not merely a re-run of planning applications (and vice versa) However, the Council is committed to high standards of customer care, including as part of this the provision of a high quality one stop shop service for customers seeking advice on both planning and licensing issues. As such officers will always endeavor to work together to provide meaningful joined up advice to customers seeking advice on a matter which raises both licensing and planning issues.

2.49 The Council responds to this challenging situation in three ways:

- Undertaking a diverse and wide ranging initial consultative process
- Actively seeking and responding to the views of all responsible authorities and interested parties throughout the lifetime of the policy
- Facilitating a suitable multi-agency forum to encourage dialogue and the proper integration of the Licensing Policy with other policies that may impact upon it

2.50 This policy encourages the provision of a broader range of cultural activities, in particular live music. As such, only proportionate and reasonable licence conditions will be imposed on such events. The impact of the policy on relevant cultural activities will be assessed via the County Durham Cultural Strategy Steering Group. This group which includes representatives from County and District Councils and other relevant bodies, monitors the County Durham Cultural Strategy “Yeast in the Dough”.

Cumulative Impact

2.51 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Council can take into account. This should not, however, be confused with ‘need’ which relates more to the commercial demand for a particular type of premises e.g. a pub, restaurant or hotel. The issue of ‘need’ is therefore a matter for planning consideration or for the market to decide and does not form part of this Licensing Policy Statement.

2.52 The Council may receive representations from either a responsible authority or an interested party that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type. Such representations may claim that the cumulative impact creates a focal point for large groups of people to gather, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases the

issue of cumulative impact can be taken into account when considering the individual merits of any application.

2.53 The Council will not operate a quota of any kind, which would predetermine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they are likely to have on the local community.

2.54 In determining whether to adopt a 'saturation' policy for a particular area the Council may;

- gather evidence of identification of serious concern from a responsible authority or local residents about actual nuisance and disorder, or the imminent threat of it
- identify the area from which problems are arising and the boundaries of that area and make an assessment of the causes
 - consult with those specified in section 5(3) of the 2003 Act and subject to the outcome of the consultation;
- adopt a policy about future applications for premises within that area

2.55 The Council is keen to stress that as well as the powers under the Act, there are a number of other mechanisms for addressing issues associated with the night-time economy, that have a negative impact. Prior to the implementation of the Act, the following controls were in place:

- Aspects of the planning process
- Street cleansing
- CCTV surveillance to the town centre
- A well established taxi service
- A dedicated Police Licensing Unit

2.56 The Council recognises further powers granted under the Act, including:

- Additional Police and Environmental Health Officer powers to close premises
- Review of licences / certificates

2.57 Additionally, the Council as part of its ongoing strategy for its management of the night-time economy will consider the feasibility of further measures including;

- Adoption of street trading byelaws
- Adoption of legislation relating to drinking in public places

2.58 These measure will be supplemented by other local or national initiatives where appropriate.

NON DISCRETIONARY POWERS UNDER THE ACT

3.1 This section of this document does not set out how the Council will administer the regime. It identifies key areas of the Act where the Council has power(s), but has little or no discretion in how it uses it. That is, areas where the Act has identified a clear procedure to be followed and clear criteria which must be met. In these instances, the Council is required to follow a course of action identified by the Act.

Reviews

3.2 Following the grant of a licence a responsible authority or interested party may request the Council to review the licence/certificate where problems associated with the four licensing objectives have arisen. It is important to note that the Council does not have the power to instigate a review, however once a review of a licence has instigated, the council will administer and determine its outcome at a hearing where an evidential-basis for the allegations made will need to be submitted. However, the Council expects responsible authorities to try to give licensees early warning of any concerns identified at a premises. Revocation of a licence will be seriously considered, even for a first offence, if the prevention of crime objective is being undermined.

3.3 Requests for reviews may be rejected where, in the view of the Council, the complaint is not relevant to the licensable objectives or is frivolous, vexatious or repetitious (see glossary).

Provisional Statements

3.4 Where premises are being or are about to be constructed for the purpose of being used for one or more of the licensable objectives, or are being or about to be extended or otherwise altered for that purpose, applicants may apply for a provisional statement if they have an interest in the premises. This will give the owner some reassurance about whether a licence would be granted if the premises was built as set out in the application for the provisional statement. However, a provisional statement is not an authorisation, so the relevant permission must still be obtained in order to carry on licensable activities.

Interim Authorities

3.5 If a premises licence holder dies, becomes bankrupt or mentally incapable then the licence will lapse. However, if within a seven-day period of such circumstances a person who had an interest in the premises or who is connected to the former holder of the licence, gives the Council an "Interim Authority Notice", the premises licence will be reinstated for a period of 2 months.

Personal Licences

3.6 The Council has very little discretion with regard to the issuing of personal licences. Applications for personal licences will be granted provided the applicant holds a relevant licensing qualification (go to www.culture.gov.uk for a list of the current accredited licence qualification providers) and has not been convicted of a relevant offence. Exceptionally the Police may object, although only on the grounds of crime and disorder. In these instances, a hearing will be held to decide the application.

3.7 In the event of a hearing, the Council will carefully consider whether the granting of a licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.

3.8 The Council will produce guidance and application packs/procedures once the Department for Culture, Media and Sport (DCMS) has published the appropriate regulations.

Appeals

3.9 Should an applicant wish to appeal against the decision of the Council, they should give a notice of appeal to the justices' chief executive for the Magistrates' Court within a period of 21 days beginning with the day on which they were notified of that decision. Details of local Magistrates' Courts are available from the Licensing Department.

Temporary Event Notices

3.10 Temporary Event Notices (TENs) are intended to allow charities, community and voluntary groups, schools, churches and hospitals to hold relatively small-scale short-term events. However, the Council realises that there is potential for this intended aim to be open to misuse or misinterpretation. Where this situation occurs and the Council has grounds to believe it may lead to events that are unsafe, unsuitable or inappropriate for either attendees or other parties it may seek a remedy outside of the Act, either by recourse to other appropriate legislation or legal mechanism such as an injunction. The Council encourages those who seek to utilise such notifications to give as long a period of notification as practicable, as the ten day deadline is an absolute minimum. The address that TENs should be served on Durham Constabulary can be found in paragraph 8.1

DISCRETIONARY POWERS UNDER THE ACT

4.1 The Council's functions as a Licensing Authority are to be carried out by its Licensing Committee. As many of the decisions and functions will be purely administrative in nature, officers will be given appropriate delegated powers. The scheme of delegation is outlined below:

Table 1 – Delegated Powers

Matter to be dealt with	Full Committee	Statutory	Officers
Review of Policy	All cases		
Change in Act	All cases		
Change in Regulations	All Cases		
Application for personal licence		If a Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases	
Application to transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a Police objection	All other cases
Application to review premises licence/club certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious		All cases	
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police objection to a temporary event notice		All cases	

Where there are no relevant representations/objections to the grant of premises licences, club certificates, personal licences or temporary activities, officers dealing with these applications will report the outcomes back regularly to licensing committee so that they maintain an overview of the general situation.

Hearings

4.2 A hearing will be arranged to deal with any applications which cannot be dealt with under delegated powers or resolved by agreement between applicants, interested parties and/or responsible authorities.

4.3 Each case will be decided on its own merits.

4.4 Hearings will be held at the earliest opportunity and have regard to the laws of natural justice and the Committee will conduct a quasi-judicial consideration of the application, objections and representations.

4.5 A legal advisor, advocate or friend may represent applicants where they do not choose to represent themselves.

4.6 Conditions may be attached to licences. A list of Pool of Conditions is available on the DCMS website at www.culture.gov.uk. Any condition may be drawn from the list, or be based upon such a condition or may be devised having regard to the particular circumstances of the application. The Council recognises that it cannot impose blanket standard conditions.

4.7 Any condition attached to a licence will be related to one or more of the licensing objectives.

Premises Licences

5.1 A premises licence is required for any premises where it is intended that a licensable activity is to take place, with the exception of permitted temporary activities.

5.2 To assist the efficient administration of all application processes, the Council will produce a range of guidance documents/application packs for the applicants. These will detail the relevant procedures and what information should be submitted with an application for a premises licence. This process should include the submission of an operating schedule. The Council recognises that the regulatory regime encompasses a broad range of premises that will vary in size, style and character. Operating schedules will similarly vary in both scope and detail. In respect of some premises it is possible that no measures will be needed to promote one or more of the licensable objectives. However, for larger venues offering late night entertainment, operating schedules need to contain detailed

and justified risk based decisions on the promotion of the four licensing objectives. The section below outlines a non-exhaustive checklist businesses should use in writing their operating schedule. Further detail on each licensing objective may be found in sections 2.12 – 2.37.

5.3 Prevention of Crime and Disorder

- Is there is a history of crime, violence, disorder or drugs?
- Ways to deter drug problems/abuse – for guidance please refer to the Safer Clubbing Guide
- Current controls (e.g. searches, signage, training of staff, radio links to Careline, Pubwatch and other public houses, provision of door supervisors and female attendants)
- Culture / age profile of patrons
- Approach, management and likely local impact relating to drinks promotions whilst not specifying a minimum price condition, the Council will expect operators to consider the destabilising effect irresponsible discounting can have on the market)

5.4 Premises with any indication or history of drugs misuse shall include a ‘Drugs Misuse Action Plan’ as part of their operating schedule. Additionally, an action plan will be required if the character of the premises is considered to lead to an increased risk of drugs use.

5.5 Public Safety

- The Council recognises that the majority of licensed premises are subject to the Health and Safety at Work etc Act 1974. It is not necessary to detail existing health and safety arrangements within the operating schedule except where the general duties specified do not adequately cover specific issues which arise on the premises, for instance a spillage/breakage policy would have to recognise the potential for some customers to remove footwear whilst on the dance floor
- Where regulated entertainment includes dancing, this should be risk assessed. The Council recognises that dance floors may be a flashpoint for potential violence and disorder, the risk assessment should consider adequate supervision, safe location for DJ or entertainers, potential of special effects and lighting, area for safe bottle or glass storage, use and consumption of drinks on dance floors.
- Ways to monitor numbers and deal with overcrowding issues (Provision of door supervisors)

5.6 Prevention of Public Nuisance

- Assessment of likely noise levels in the premises
- Assessment of likely noise levels if outdoor drinking is allowed
- The sound insulation the building will provide (e.g. double glazing, open-able windows, double doors/lobbies to entrances)
- The distance and direction to the nearest noise sensitive premises
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises)
- Availability of toilets after closure of premises
- Dispersal of patrons – where necessary the Council will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits.
- Ways to limit noise/disorder from patrons leaving the premises

5.7 Protection of Children from Harm

- Ways to prohibit unaccompanied children accessing the premises
- Is there entertainment or services of an adult or sexual nature provided?
- Has there have been convictions of members of the current staff at the premises for serving alcohol to minors or a reputation for underage drinking?
- Is there a known association with drug taking or dealing?
- Is there a strong element of gambling on the premises?
- Is the supply of alcohol for consumption on the premises the exclusive or primary purpose of the services provided at the premises?

5.8 The Council strongly advises that the applicant seeks the views of responsible authorities on their risk assessment, operating schedule and plans relating to the licensable activities to be conducted, at the earliest opportunity. This should make the full application process much easier for all parties.

5.9 It will be a criminal offence enforceable by law to fail to comply with licence conditions.

5.10 The Council reserves the right to address individual opening hours at premises on each individual case. Restrictions may be put in place when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music in a public house after a certain time may be prohibited even though other licensable activities are permitted to continue. However, there will be a presumption to grant the hours requested unless there are specific objections to those hours raised by responsible authorities or interested parties on the basis of the licensing objectives.

5.11 The Council recognises that in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

5.12 With regards to shops, the presumption will be to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping, unless representations raise very good reasons, based on licensing objectives, for restricting those hours.

Club Premises Certificates

6.1 The Council recognises that premises to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues than those presented by commercial enterprises selling direct to the public. These premises make an important and traditional contribution to the life of many communities and bring significant benefits. Clubs will still be required to submit a club operating schedule and should still therefore have regard to section 5. However, the Council recognises that their activities take place on premises to which the public do not generally have access and they operate under codes of discipline applying to members and their guests. The Council will have due regard to this when determining what conditions will be included in certificates. Conditions will only be applied when strictly necessary.

6.2 In order to qualify for this exemption clubs must satisfy the conditions specified in Sections 62-64 of the Act.

Monitoring and Enforcement

7.1 The licensing objectives create a broad range of possible offences, including carrying on licensable activities without a relevant permission or failing to comply with the conditions of a licence. The Council acknowledges the wide range of options available under the Act, to prevent, control or mitigate potential problems, and also understands that it is not the only authority or agency involved. Likewise, the Act itself is only one of several pieces of legislation applicable in these circumstances. In all instances, the Council will be guided by the principles outlined in the Enforcement Concordat and its own enforcement policies.

Monitoring

7.2 Monitoring refers to the various processes by which the Council and other agencies involved gather information concerning this policy, its impact and individual and collective compliance with it. Given the diversity of both the district, premises and businesses involved, monitoring will take a variety of forms encompassing both proactive and reactive visits. Effective monitoring will serve a variety of purposes. In the first instance it will allow for the identification of problems and early intervention in them in order to avoid the need for formal

action. In more serious situations it will act as the basis for gathering intelligence/evidence necessary to take formal action. Over time, monitoring activities will allow the Council to build an accurate picture of the effectiveness of its policy in meeting the licensing objectives, allowing for its continual review and improvement. Where necessary monitoring will focus, in particular, on areas that appear to be suffering specific problems that are caused by a high density of certain types of licensed premises.

7.3 The Council as the Licensing Authority has a central role in collating and disseminating information and intelligence to and from key partners including the Police, Fire and Rescue Service, Trading Standards Officers, Security Industry Authority, Licence holders, other Council departments, Pubwatch, the taxi trade and public representatives. The Council will attempt to achieve this by establishing appropriate working / liaison groups, producing publicity material and holding public meetings where appropriate.

7.4 Notwithstanding the generality of 7.3, given the common thread the issue of under age sale of alcohol has to many of the licensing objectives, the Council will, in particular, monitor complaints or intelligence on this issue. It will endeavour to work closely with key partners, using test purchases or other appropriate measures to investigate or take necessary action.

Enforcement

7.5 The Council in the first instance will attempt to balance the needs and rights of all parties concerned and resolve issues without recourse to formal legal action. Notwithstanding this the Council recognises its duty to protect the security and quality of life of the public. In doing so due regard will be given not only to the powers contained in this Act but also to other appropriate legislation for example; the Environmental Protection Act 1990 and the Health and Safety at Work etc Act 1974.

7.6 This approach will be particularly evident when dealing with Permitted Temporary Activities. The Council embraces the concept of Temporary Event Notices (TENs) and the freedom they allow to charities, community and voluntary groups, schools, churches and hospitals to hold relatively small-scale short-term events. However, the Council realises that this intended aim is open to misuse and misinterpretation by less worthy causes. Commercial or even criminal organisations may attempt to use this relaxation for purposes other than those intended by the Act. Where this situation occurs and the Council has grounds to believe it may lead to events that are unsafe, unsuitable or inappropriate for either attendees or other parties it may seek a remedy outside of the Act, either by recourse to other appropriate legislation or legal mechanism such as an injunction.

Contact Information

8.1 The Council would encourage informal discussion prior to application/notification, and can provide general advice and guidance. The Licensing Department can be contacted at:

The Licensing Department
Chester le Street District Council
Civic Centre
Newcastle Road
Chester le Street
County Durham
DH3 3UT

Telephone: 0191 3872202

E-mail: licensing@chester-le-street.gov.uk

Fax: 0191 387 2165

Further information can be found on our website at www.chester-le-street.gov.uk

Responsible Authorities

Environmental Health Manager
Chester-le-Street District Council
Civic Centre
Newcastle Road
Chester-le-Street
County Durham
DH3 3UT

County Durham and Darlington Fire and Rescue Service
Fire Brigade Headquarters
Framwellgate Moor
Durham
DH1 5JR

Social Services
Durham County Council
129 Front Street
Chester-le-Street
County Durham
DH3 3BL

Durham Constabulary
Licensing Unit
Newcastle Road
Chester-le-Street
County Durham

Development and Building Control Manager
Chester-le-Street District Council
Civic Centre
Newcastle Road
Chester-le-Street
County Durham
DH3 3UT

Equal Opportunity

8.2 This Statement of Licensing Policy recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

GLOSSARY OF TERMINOLOGY

Entertainment Facilities

Facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for the purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003.

Frivolous Representation

This matter is decided on its own merits, however these representations are categorised by a lack of seriousness.

Incidental Music:

Where in certain circumstances the performance of live music, or the playing of recorded music is incidental to another activity, which is not in itself entertainment or entertainment facilities. If the volume of the live or recorded music predominates over the other activities, this would generally not be regarded as incidental. As the Act does not define “incidental” the Council will judge whether music of this kind is incidental to other activities on a case by case basis.

Interested Party

- i) a person living in the vicinity of the premises
- ii) a body representing persons who live in that vicinity
- iii) a person involved in a business in that vicinity
- iv) a body representing persons involved in such businesses

Late Night Refreshment

The provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11p.m. and 5a.m. **or** at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises. Where ‘hot food or hot drink’ is defined as; ‘Food or drink supplied on or from any premises is ‘hot’ for the purposes of schedule 2 to the Act if the food or drink, or any part of it:

- i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
- ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

Licensable Activities and Qualifying Club Activities

- i) the sale by retail of alcohol
- ii) the supply of alcohol by or on behalf of a club, or to the order of, a member of the club
- iii) the provision of regulated entertainment
- iv) the provision of late night refreshment for those purposes the following licensable activities are also qualifying club activities;
 - i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place
 - ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
 - iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

Operating Schedule

The operating schedule is the part of the application form for a premises licence or club certificate, where the applicant sets out various details about how they propose to operate the premises when carrying on licensable activities; proposed opening hours and times for licensable activities; proposed duration of the licence or certificate; and a statement of the steps the applicant proposes to take to promote the licensing objectives (for example, arrangements for door security to prevent crime and disorder). The significance of the operating schedule is that if the application for the premises licence or club premises certificate is granted, it will be incorporated into the licence or certificate itself and will set out the permitted activities and the limitations on them.

Private Event

An event, where a licensable or other activity takes place, to which the public do not have access. Such an event would be defined as regulated entertainment, and therefore licensable, only if it is provided for consideration and with a view to a profit. For example, a charge to those attending a private event to cover the costs of the entertainment, and no other purpose, would not make the entertainment licensable, as this would not be with a view to a profit. It would be irrelevant if a profit might inadvertently be made as long as there had not been an intention to make a profit.

Regulated Entertainment

- (a) a performance of a play
- (b) an exhibition of a film
- (c) an indoor sporting event
- (d) a boxing or wrestling entertainment
- (e) a performance of live music
- (f) any playing of recorded music
- (g) a performance of dance
- (h) entertainment of a similar description to that falling with paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is

provided for the purpose, or for the purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of schedule 1 to the Licensing Act 2003

Relevant Representation

A representation would only be 'relevant' if it relates to the likely effect of the grant to the licence on the promotion of at least one of the four Licensing Objectives. For example, a representation from a local businessman which argues that his business would be commercially damaged by a new business for which an application is being made under Part 3 of the Act would not be relevant – this is a commercial matter. However, if a representation to the effect that nuisance caused by the new business would deter customers from entering the area and the steps proposed by the applicant to control the nuisance are inadequate would amount to a relevant representation.

Repetitious Representation

This matter is decided on its own merits, however a 'repetitious representation' would be categorised as being similar, or of a similar nature, to a previous representation which has already been decided upon.

Responsible Authority

- i) the Chief Officer of Police for any Police area in which the premises are situated
- ii) the Fire Authority for any area in which the premises are situated
- iii) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- vi) a body which:
 - (a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - (b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
- vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated
- viii) in relation to a vessel:
 - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities
 - (b) the Environment Agency
 - (c) the British Waterways Board, or

(d) the Secretary of State

(e) a person prescribed for the purpose of this subsection.

Temporary Event

The use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.

Vexatious Representation

This matter is decided on its own merits, however vexation may arise because of disputes between rival businesses or persons.



Chester-le-Street
District Council

Report to: Council
Date of Meeting: 20 December 2007

Report from: Head of Planning and Environmental Health

Title of Report: Draft Environmental Health Enforcement Policy

Agenda Item Number:

1. PURPOSE, SUMMARY AND RECOMMENDATIONS

- 1.1 The purpose of the report is to consider the proposed Draft Environmental Health Enforcement Policy which is attached as Appendix A.
- 1.2 The Draft Enforcement Policy amalgamates and updates existing individual policies required by legislation and statutory codes of practice into a single document and clarifies the Council's approach to Environmental Health enforcement activities.
- 1.3 Council is requested to adopt the draft Policy as a version suitable for public consultation and request Officers to carry out an appropriate public consultation exercise.

2. CONSULTATION

- 2.1 Consultation was undertaken with the Head of Legal and Democratic Services, Head of Planning and Environmental Health, Acting Environmental Health Team Leader and Officers of the Environmental Health Team who specialise in the specific functions of the service to which the Enforcement Policy relates. The Performance and Improvement Manager was consulted regarding the diversity implications and the Risk and Financial Services Manager on risk management implications. Comments received are incorporated within the draft policy document.

3. CORPORATE PLAN AND PRIORITIES

- 3.1 The adoption of a draft Enforcement Policy contributes directly to priority NM12 of the Corporate Plan 2006-2009.

- 3.2 An Environmental Health Enforcement Policy is required to meet the requirements of BVPI 166.
- 3.3 The Enforcement Policy through its promotion of consistency and fairness reflects the Council's priorities of customer excellence.

4. Implications

4.1 Financial Implications

- 4.1.1 Adoption of the Enforcement Policy including the cost of producing and distributing the draft policy for consultation, the publication of the approved Enforcement Policy on the Council's website and the production and distribution of a summary leaflet for the public and businesses will be met from within existing budgets.
- 4.1.2 There are a number of enforcement activities which can generate income. These include the service of fixed penalty notices and the setting up of charges. This report does not seek to alter these charges which were previously agreed via specific reports and are set to recover costs only.

Value for Money Statement

- 4.1.3 The adoption of the draft Enforcement Policy will ensure more efficient and effective working and improve performance against local and national performance indicators.
- 4.1.4 The draft Enforcement Policy takes a risk-based approach to regulatory activity. This provides the most efficient use of resources and provides protection for the consumer, whilst minimising burdens on compliant businesses.
- 4.1.5 This risk-based assessment approach informs all aspects of the enforcement processes within the Enforcement Policy, from the selection of the most appropriate level of enforcement through to the collection of data, inspection and prosecution. Undertaking risk assessment takes into account the nature of a business and external factors affecting risk. Resources will be directed where they are most effective which will result in reducing unnecessary inspections or data requests from low-risk businesses. It will enable the identification of those businesses that need more regular inspection and release resources to improve broader advice services and to address service priorities.

4.2 Legal

- 4.2.1 Subject to para. 4.2.2. the Enforcement Policy does not arise from a specific statutory power or requirement. Rather it relates to how the

Council will approach the issue of the enforcement of a raft of diverse legislation enforced by the Environmental Health Service.

4.2.2. The Enforcement Policy does address two specific statutory requirements in relation to the 'Framework Agreement for Food Safety' issued under the Food Standards Act 1999 and Health and Safety at Work Etc. Act 1974 Section 18 Guidance, both of which require an enforcement policy.

4.2.3 The adoption of the Enforcement Policy will reduce the risk of a successful legal challenge when enforcement action is taken.

4.3 Personnel

4.3.1 There are no human resource implications arising from this report.

4.4 Other Services

4.4.1 As the policy does not fundamentally alter the Department's approach to enforcement rather it amalgamates and expands a number of existing documents. It is not expected that the adaptation of the policy itself will lead to any increase in workload.

4.5 Diversity

4.5.1 Consultation on the diversity aspects of the Enforcement Policy was undertaken with the Performance and Improvement Manager and comments have been incorporated in the Enforcement Policy.

4.5.2 The range of proactive enforcement activities which are contained in the Enforcement Policy form an invaluable mechanism for the Council to both engage with and educate many employers and employees from minority backgrounds. Workers from minority groups can be particularly vulnerable in workplace situations. Proactive measures are essential to safeguard the health, safety and welfare of the business community and the public.

4.6 Risk

4.6.1 Existing enforcement policies within Environmental Health are out of date and new legislation requires additional enforcement functions to be addressed within the service. It is considered that the adoption of the enforcement policy will reduce the risk of inappropriate enforcement or successful legal challenge.

4.7 Crime and Disorder

4.7.1 The adoption of the Enforcement Policy will enhance the delivery of a robust service in relation to environmental crime and breaches of legislation dealt with by the Environmental Health service.

4.8 Data Quality

4.8.1 Every care has been taken in the development of this report to ensure that the information and data used in its preparation and the appendices attached are accurate, timely, consistent and comprehensive. The Council's Data Quality Policy has been complied with in producing this report.

4.9 Other Implications

4.9.1 There are no other implications arising from this report.

5. BACKGROUND, POSITION STATEMENT AND OPTION APPRAISAL

5.1 The Council's Environmental Health Service has a statutory duty to enforce a wide range of legislation. Its overall approach to enforcement takes into account the six principles of 'good enforcement' set out in the Enforcement Concordat which the Council signed in 1998. The principles are associated with fair, transparent and balanced enforcement decision making. The principles are:

- Performance will be measured against published standards
- There will be openness in dealing with businesses and others
- Enforcement officers will be helpful, courteous and efficient
- Complaint procedures will be published
- Enforcement decisions will be proportionate to the circumstances
- Enforcement officers will strive for high standards of consistency

5.2 The principles of the Enforcement Concordat are substantially reinforced through the introduction of Best Value Performance Indicator 166a, which sets out a framework to measure and score enforcement performance. The main provisions relate to:

- Written and published enforcement policy
- Planning of enforcement activity
- Reactive enforcement activity
- Appropriate resources
- Consultation and satisfaction levels

5.3 Existing position

5.3.1 The Environmental Health team currently only has one enforcement policy that has been properly adopted by the Council, this relates to the enforcement of food safety law.

5.3.2 Two other enforcement policies, the first relating to Health and Safety enforcement and the second a generic policy were developed but

subsequently suspended when a corporate enforcement policy was proposed.

5.4 Proposed enforcement arrangements

The draft Policy provides a practical opportunity not only to update existing policies but also to rationalise them into one document that has the advantage of being readily accessible and a single point of reference to officers and the public.

5.5 The proposed Policy bridges the gap between the high level issues of proportionality, transparency and consistency of enforcement action with the practical issues faced by Officers.

5.6 The policy is effectively in two parts, the first addresses generic enforcement issues and principles. The second, presented as a series of appendixes provide service specific guidance and details of the enforcement options available in each area. This approach has been adopted in preference to the continued adoption of service specific enforcement policies such as those for food and health & safety as it provides a simpler more comprehensive document and provides for more efficient and effective consultation.

5.7 Executive considered the report on 3 December 2007 and recommended to Council that the Draft Enforcement Policy attached as Appendix A be approved as a version suitable for public consultation and that Officers be requested to carry out an appropriate public consultation exercise.

6. RECOMMENDATIONS

6.1 Council are asked to;

6.1.1 Consider the draft Policy and adopt it as a version suitable for public consultation.

6.1.2 Request officers to carry out an appropriate public consultation exercise.

7. BACKGROUND PAPERS/ DOCUMENTS REFERRED TO

7.1 The Enforcement Concordat
The Code for Crown Prosecutors
Best Value Performance Indicator 166 Guidance DETR 2004
Food Law Code of Practice

Christine Ditchburn (Environmental Health Manager (Commercial))

DATE OF REPORT 5 December 2007

VERSION NUMBER 2.0

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CHESTER-LE-STREET DISTRICT COUNCIL
ENVIRONMENTAL HEALTH SERVICE
ENFORCEMENT POLICY

(DRAFT)

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Environmental Health Service Enforcement Policy (Draft)

1. Introduction

- 1.1 The Council has a statutory duty to enforce a wide range of legislation in order to maintain standards relating to environmental health, housing and licensing. In exercising its enforcement role the Council is not acting on behalf of any individual, but is acting in order to promote the wider public interest.
- 1.2 The Environmental Health Service (the Service) is committed to ensure delivery of its regulatory responsibilities for promoting, protecting and enhancing the health, safety, welfare and overall wellbeing of all residents, workers and visitors to the District. The Council has adopted the Enforcement Concordat and fully endorses its principles relating to consistent, fair, proportional and open enforcement.
- 1.3 The Service recognises that securing compliance with regulatory requirements using enforcement powers plays an important part in achieving this aim. A graduated approach and compliance achieved through education, advice and guidance will be considered in order to adopt a balanced approach to decisions regarding enforcement to those it regulates. Each case is unique and must be considered on its own merits. There are, however, general principles that apply in the way each case must be approached. These are laid out in this Enforcement Policy (Policy) and in the Enforcement Concordat.
- 1.4 The Service seeks to secure co-operation avoiding bureaucracy, ensuring efficient compliance with legislation whilst, at the same time minimising the burden on businesses, individuals, organisations and the Council itself. The Service encourages individuals, landlords and businesses to put safety first and to integrate good working practices into normal working methods.
- 1.5 The Service applies this Policy so that it can make fair and consistent decisions on enforcement action and will take into account the risk to health, safety and well being of the public and the environment and the seriousness of the offence. The Service recognises that a decision on enforcement action can have serious implications for all involved affecting the general public, businesses, tenants, landlords, victims, witnesses and defendants.

- 1.6 The Service works in association with Central Government and other Regulators to help ensure coherent regulation. They will also work with voluntary and community groups and non-governmental organisations in order to achieve common goals.
- 1.7 The purpose of this Policy is to provide a general policy that outlines the overarching principles applied to making enforcement decisions and the process officers will use when deciding what action to take when carrying out their statutory duties on behalf of Council.
- 1.8 The Policy applies to enforcement activities carried out under legislation enforced under the Council's Environmental Health regulatory function. Enforcement in the context of this policy includes action carried out in the exercise of, or against the background of statutory enforcement powers.
- 1.9 The regulatory functions delivered by the Environmental Health Service are extensive and include food safety, occupational health and safety, infectious disease control, private sector housing, environmental protection (including statutory nuisance), contaminated land, air quality, pest control, public health and licensing functions.
- 1.10 The Policy does not directly concern itself with operational matters and is not a definitive procedural guide, but aims to outline the policy issues associated with enforcement decision making. It defines the approach to enforcement and instances when enforcement powers are initiated and under what circumstances. Powers relating to the specific regulatory functions delivered by the Service are detailed in the appendices to this document. Due to the individual nature of many cases considered by the Service, the Policy cannot be considered to be exhaustive.
- 1.11 Management systems will be maintained to monitor the quality and nature of enforcement activity undertaken and to ensure as far as practicable, uniformity and consistency in the approach and quality of the Service.

2. Departure from the Enforcement Policy

- 2.1 All authorised officers will abide by this Policy when making enforcement decisions.
- 2.2 Any departure from the Policy will only be accepted in exceptional circumstances, be capable of justification, and only after full consideration and authorisation by the Head of Planning and Environmental Health, unless there is a demonstrable, significant and imminent risk to the public or environment in delaying enforcement.

- 2.3 Instances of non-compliance with this Policy will be recorded and reported directly to the Head of Planning and Environmental Health

3. Responsibility and Authorisation

- 3.1 The Council is responsible for approval of this Policy and any amendment to it.
- 3.2 Responsibility for implementation of the Policy rests with the Head of Planning & Environmental Health.
- 3.3 Authorised officers of the Service carry out the day-to-day enforcement activities. Officers are authorised in accordance with relevant Codes of Practice or National Guidance to carry out inspections, sampling, complaint investigations, deal with requests for service and, where necessary, offer advice and training.
- 3.4 The relevant Environmental Health Service Manager is responsible for the planning, organising and subsequent monitoring of all aspects of the Policy.
- 3.5 The Policy should be read in conjunction with the Council's Constitution, which sets out the specific areas of delegated powers and responsibilities of officers.
- 3.6 Enforcement action will be initiated by suitably qualified, experienced and competent enforcement officers. Officers who are competent through training, qualification and/or experience will be authorised in writing to undertake enforcement action.
- 3.7 Officers who undertake criminal investigations will be conversant with the provisions of the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedure and Investigations Act 1996 (CPIA), the Data Protection Act 1998, the Human Rights Act 1998, the Disability Discrimination Act 1995 and the Regulation of Investigatory Powers Act 2000.
- 3.8 All staff will recognise and comply with the Council's Corporate Equality Plan incorporating the Race Equalities Scheme and Equality Policy. The plan provides a framework setting out how the Council will promote the wide ranging equalities agenda to the community and to its employees.
- 3.9 All statutory notices will be authorised and signed by either the relevant Environmental Health Manager or investigating officer unless specific authorisation has been granted to another officer.

- 3.10 The issue of a simple caution and any decision to prosecute will only be administered or approved by the Head of Planning and Environmental Health or relevant Environmental Health Service Manager in liaison with the Head of Legal and Democratic Services.
- 3.11 Where a prosecution is determined in accordance with the Policy, the relevant Environmental Health Manager in consultation with an authorised officer shall consider sanctioning expert assistance from external bodies where relevant. Assistance may include reports and certificates of analysis from the Public Analyst, the Health and Safety Executive or the Environment Agency.

4. Regulation of Investigatory Powers Act 2000

- 4.1 The Service may, from time to time, undertake covert surveillance for the purpose of gathering evidence in connection with its operations in relation to planned inspections of premises, the initiation of investigations following a complaint or notification and in the use of surveys or enforcement initiatives. Any covert surveillance will be strictly controlled in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA).

5. Release of Targeted Regulatory Data

- 5.1 The Council recognises the importance of open government and the national statutory framework relating to the disclosure of information as provided by the Freedom of Information Act 2000 and the Environment Information Regulations 2004.
- 5.2 Individual requests for information will be considered on their merits having regard to the law and code of best practice.

6. Race Relations, Discrimination and Protection of Human Rights

- 6.1 The Policy recognises that the Race Relations Act 1976 (as amended by the Race Relations (Amendment Act) 2000) places a legal obligation on the Council to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- 6.2 It should be considered that each case will vary and each must be considered on its own merits before a decision is reached even though the general principles will apply in all cases.

- 6.3 No one recommending or deciding upon legal proceedings or serving a statutory notice should be influenced by ethnic or national origin, gender, religious beliefs, political views, age, disability or sexual preference. They must also not be affected by improper or undue pressure from any source.
- 6.4 Regard shall be given to the Human Rights Act 1998 and the European Convention on Human Rights and Fundamental Freedoms. In particular, regard shall be had to the provisions of Article 6: the Right to a Fair Trial, Article 8: the Right to respect Private and Family Life, Article 14: the Prohibition on Discrimination and Article 1 to the First Protocol regarding Protection of Property.
- 6.5 Any interference with a convention right must be justified as being in accordance with the law and be proportionate and necessary to further a legitimate aim.

7. Data Protection

- 7.1 Authorised officers will be mindful of the requirements of the Data Protection Act 1998. The Council follows the requirements placed on it by the Act.
- 7.2 Businesses or the public may request to receive information on regulatory issues electronically. The Council will ensure that Data Protection Act requirements will be followed for the use of E mails and businesses will be asked to confirm in writing that they wish to receive information in this way.

8. Enforcement Concordat

- 8.1 The Enforcement Concordat sets out good practice principles and procedures for consistent enforcement of regulations in a way that is fair, practical and which emphasises prevention over cure. It sets out what businesses and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. The principles underlying the Enforcement Concordat require a policy of firm but fair regulation.

8.2 The Policy is based around the general principles of the Enforcement Concordat, taking into account:

- Policy standards
- Transparency and openness
- Helpfulness to service users
- Proportionality of the service response
- Consistency of the service
- Targeting of enforcement action
- Accountability of the service
- Complaints about the service

8.3 Commitment to the principles of the Enforcement Concordat will be demonstrated by:

- Taking all enforcement decisions in a proportionate manner
- Striving for high standards of consistency
- Ensuring that all enforcement staff are helpful, courteous and efficient
- Measuring our performance against agreed standards, where appropriate

9. Principles of Enforcement

9.1 Policy Standards

In consultation with businesses and other relevant interested parties, including experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. Details of these standards and targets together with reports will be available together with reports on performance against these stated targets. We will produce written statements defining what level of service can be expected and where performance targets exist they will be clearly stated in the Planning and Environmental Health Service Plan.

9.2 Transparency and Openness

9.2.1 Transparency and openness is vitally important in maintaining public confidence in the ability to regulate. It means helping both those regulated and others to understand what is expected of them and what they should expect from the Service. It also means making clear why an officer intends to, or has taken enforcement action.

9.2.2 Transparency is an integral part of the role of the Council's officers and the Service continues to train its staff and to develop its procedures to ensure that:

- Where remedial action is required, it is clearly explained (and confirmed in writing if requested) why the action is necessary and when it must be carried out. A clear distinction will always be made between legal requirements and best practice advice
- Opportunity is provided to discuss the circumstances of the case, clarify what is required to comply with the law and if possible, resolve any points of difference, before formal enforcement action is taken, unless urgent action is required, for example, to prevent serious harm or to prevent evidence being destroyed
- Where urgent action is required, a written explanation of the reasons is provided as soon as practicable after the event
- Written explanation will be given of any rights of appeal against formal enforcement action at the time the action is taken. This will explain the appeal procedure, where and when an appeal may be made, as well as confirming the grounds on which it may be brought. It will make clear where action will be suspended pending the outcome of the appeal

9.2.3 Every effort will be made to ensure that information and advice is provided in plain language without abbreviations or jargon and is distributed as widely as possible. The Council has interpreting and translation services available for businesses and the public who do not have English as a first language.

9.2.4 The Service will be open about how it sets about its work including any charging that it sets for any of its services and arrangements for consulting with its stakeholders will be made freely available.

- 9.2.5 Copies of the Policy will be made available to businesses and individuals and will be published. The Policy will be made available in alternative formats on request.

9.3 Helpfulness to Service Users

- 9.3.1 Advice and assistance is regarded as central to the implementation of the Policy and is used to inform both businesses and individuals of their rights and responsibilities. Help will be given to businesses, voluntary or community groups, workplace representatives and the public to assist them to comply with regulatory requirements.
- 9.3.2 By adopting this approach and by positively encouraging businesses and others to seek advice and information, many issues can be resolved without having to resort to the more formal levels of enforcement action.
- 9.3.3 A courteous approach and efficient service will be provided with all staff identifying themselves by name. The purpose of any visit will be properly explained and a contact point or telephone number for any further dealings will be given when required.
- 9.3.4 Applications for licenses, registrations, approvals etc. will be dealt with efficiently and promptly and every effort will be made to ensure that, wherever practicable, the Council's enforcement services are effectively coordinated to minimise unnecessary overlaps and time delays.
- 9.3.5 The Service operates a flexible approach to service delivery, which takes account of the diverse needs of the public and business community. Services will be made available by prior arrangement, out of hours and will be tailored to meet the specific needs of both individuals and businesses as far as practicable. In delivering services the Council will recognise its responsibilities in making them accessible to all.
- 9.3.6 Customer satisfaction surveys across all environmental health functions will be undertaken to check performance and to identify areas for improvement.

9.4 Proportionality of the Service Response

- 9.4.1 We will recognise the cost of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action. We will take particular care when working with small and medium-sized businesses which are predominant

within the District and to voluntary and community organisations and the public to allow them to meet their legal obligations without unnecessary expense where practicable.

- 9.4.2 Some incidents or breaches of regulatory requirements cause or have the potential to cause serious damage to health or to the environment. Others may interfere with people's enjoyment or rights or the Services ability to carry out its enforcement activities. The first response will be to prevent harm from occurring or continuing. We will ensure that costs of compliance are kept to a minimum by ensuring that any enforcement action taken is strictly proportionate to the risks posed and to the seriousness of any breach of the law.

9.5 Consistency of the Service

- 9.5.1 Consistency means taking a similar approach in similar circumstances to achieve similar ends. All those involved need to know that they are being treated fairly and businesses are competing with one another on level terms. The Service will endeavour to ensure that all enforcement decisions are consistent, balanced, and fair and relate to common standards. In coming to any decision, account will be taken of the seriousness of the offence, past history, confidence in management, the consequences of non-compliance, and any evidence of genuine remorse and the likely effectiveness of the various enforcement options.
- 9.5.2 It is, however, recognised that consistency does not mean simple uniformity. Officers need to take account of many variables, such as the scale of impact on health or the environment, the attitude and actions of those responsible and the history of previous incidents or breaches. Officers will need to exercise their professional judgment and discretion according to the circumstances of each individual case.
- 9.5.3 Arrangements are in place to promote consistency in the interpretation and enforcement of legislation through liaison with other local authorities throughout County Durham, Northumberland, Tyne and Wear and Tees Valley. We subscribe to the Local Authority Coordinating Body on Regulatory Services (LACORS) and the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA). We also have regard to statutory Codes of Practice, the Health and Safety Executive's Enforcement Management model (EMM) and to guidance and advice provided by LACORS, HELA and from Central Government departments.

9.6 Targeting

9.6.1 Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risks or where the hazards are poorly controlled or against deliberate or organised crime. Action will be primarily focused on those that break the law or those directly responsible for the risk and who are best placed to control it.

9.6.2 The Service has systems for prioritising regulatory effort and will ensure that resources are targeted towards responding to complaints from the community about regulated activity, the inspection of premises according to the risks posed and the gathering and acting on intelligence about illegal activities.

- Commercial premises will receive inspection visits in accordance with their perceived risk so that the public can be assured that potentially serious risks continue to be effectively managed
- Houses in Multiple Occupation operated by private sector landlords will be risk assessed and proportionate regulatory effort pursued
- Action will be primarily focused on lawbreakers and those who are directly responsible for the risk and who are in the best position to carry out controls

9.7 Accountability of the Service

9.7.1 It is accepted that despite best efforts users may occasionally be unhappy with the service provided. We recognise the role service complaints can play in identifying areas for improvement. To this end we will provide well-publicised, effective and timely complaints procedures easily accessible to businesses, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and likely timescales involved.

10. Levels of Enforcement Action

The objectives of the Service are underpinned by a wide range of legal duties and powers. Whilst the core aim of the Service is to safeguard public health through the provision of education and professional advice, there will be instances where enforcement action is warranted in order to

protect the environment, health or the quality of life for the businesses and the public.

There are a number of enforcement options open to officers when they encounter non-compliance with legislative duties and these are summarised below:

10.1 Promotion and Prevention

10.1.1 The Service considers that promotion is an essential part of this Policy. It raises awareness of Environmental Health services, informs people of their legal responsibilities and encourages co-operation between officers, businesses and the general public. A strong element of self-regulation is considered essential and support for this will be provided by methods including training courses, workshops, seminars, the issuing of press releases, the Council's website, the production of leaflets, other forms of written guidance and the opportunities presented by day-to-day contact with businesses and customers.

10.1.2 Prevention is an important level of enforcement by ensuring policy compliance and preventing contraventions of the law by raising awareness and promoting good practice. Proactive inspections at various types of premises are carried out each year at a frequency determined by risk. This proactive approach is seen as a means of building positive relationships between the Service and the operators and proprietors of premises and is particularly applied when officers are not aware of any specific contravention of the law.

10.1.3 The Service provides a range of approvals, licences, authorisations and permits as specified by individual pieces of legislation. These are an important part of the preventative aspect of our work.

- Applicants will be helped to understand what is required to obtain approval through pre-application advice, published guidelines and post application discussion. However, we will not prepare or design applications in order not to compromise our independence in deciding whether to approve the application
- Applications may be approved as they are submitted, varied by agreement and then approved, approved subject to conditions or rejected. Applicants or their agents will always be notified in writing of the outcome of their application, including the reasons if rejected. Any rights of appeal will be provided at the time the decision is notified

- Depending on which service is provided, the types of circumstances in which conditions may be attached include (but are not restricted to):
 - Conditions as necessary to ensure that the purpose of an approval, licence, or registration is adhered to (for example animal welfare conditions for a Pet Shop licence), or
 - Where a food premises meets all the infrastructure and equipment requirements for approval but does not fully comply with some other requirement
- Circumstances in which applications may be refused include (but are not restricted to):
 - Where contraventions exist
 - Where there is any reason that the applicant will not comply with the purpose of the licence or registration or any conditions attached to it (for example where there have been previous infringements)
 - Where a food business operator fails to meet all the infrastructure and equipment requirements
- An applicant or their agent will be informed of the reasons for refusal and any right of appeal

10.2 Informal action

10.2.1 Informal action to secure compliance with legislation includes offering advice, verbal warnings and requests for action, the use of letters and the issue of inspection reports and schedules of work, including those generated on premises following an inspection, investigation or visit. Where necessary, such information will be provided in an appropriate language or format.

10.2.2 Such enforcement action may be appropriate in any of the following circumstances:

- The act or omission is not serious enough to warrant formal action
- The individual or company's past history, suggests informal action will achieve compliance

- Confidence in the individual or company's management is high
- The consequences of non-compliance will not pose a significant risk to public health and safety or demonstrable harm to the amenity of the area
- The action is being taken on behalf of a customer, who prefers the matter to be handled informally
- Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach. This may, for example, apply to enterprises associated with voluntary and community organisations using volunteers

10.2.3 Persons receiving an Informal Notice (verbal or written) will be given the opportunity to discuss the requirements with an officer and agree an appropriate work plan and timetable for completion. Regular contact with the investigating officer will be encouraged as the works progress for further clarification or query.

10.3 Formal Action

10.3.1 The use of enforcement action will at all times be consistent with the principles set out in the Enforcement Concordat. In coming to a decision, officers will have regard to:

- The seriousness of the offence
- The individual's or company's past history in terms of compliance
- Confidence in management
- The consequences of non-compliance in terms of risk to people, property, the community and the environment
- The likely effectiveness of the various enforcement options
- The risk to public health
- Public interest issues

- Formal action is expected to achieve the desired outcome without incurring expense or inconvenience that is disproportionate to the risks
- Legal requirements, relevant formal guidance, or other Council policies or strategies may require formal action to be taken

10.3.2 In most situations before formal action is taken, an opportunity will be provided to discuss matters with the intention of resolving points of difference. The extent of this will depend on the seriousness of the contravention, and may not be possible where immediate action is necessary, such as where there is an imminent risk to health, safety or the environment.

10.3.3 Officers who have reached a sufficient level of competence will be given the delegated authority to take formal action. Formal action can take any form that the Council is empowered to take. The following actions will be the most commonly used:

10.4 Statutory Notices

10.4.1 Notices are served to require offenders to cease contravening activities, or to give offenders reasonable time to rectify a contravention. Notices may require contravening activities to cease immediately where the circumstances relating to health, safety, environmental damage or nuisance demand this. In other circumstances, the time allowed must be reasonable, but must take into account the health, safety, and environmental damage or nuisance implications of the contravention. Information regarding any relevant appeal procedure will be made available at the time when the notice is served, as will the potential penalties for non-compliance.

10.4.2 Where there is a statutory provision that provides for the Council to levy a charge for the costs associated with the service of a formal notice, then such a charge should be made and may be pursued as a civil debt.

10.5 Works in default

10.5.1 Where provided for under specific legislation, the Council is empowered to execute works instead of, or as well as, taking enforcement action. In such cases, the expenses associated with default works will usually be recovered from the relevant party. Where appropriate these costs may be recovered by way of a land charge.

10.5.2 The Council will consider exercising work in default powers in all cases where it is legally possible and reasonable to do so. For example, in the

interests of public health and safety the Council may consider an immediate remedy to a defect using its default powers rather than seeking compliance through prosecution which could result in significant delays. Alternatively, it may be appropriate to exercise default powers where a prosecution has failed to secure compliance or is unlikely to be an effective remedy.

10.5.3 Notification of the intention to do work in default will be given to all interested parties in accordance with the law wherever practicable. In certain circumstances, such as where the Council is seeking to abate a noise nuisance, it may be necessary to carry out the works and notify the person(s) responsible retrospectively.

10.5.4 Immediate action without any prior notice will only be considered in situations where there is a risk of danger or a danger to public health. Where the law allows the Council to act immediately, an explanation will be given at the time (if appropriate) and a written confirmation will be given.

10.6 Revisits of premises

10.6.1 Following a statutory notice or any written or verbal warning given, a revisit of the premises involved will generally be carried out to check compliance has been achieved. A revisit may not always be necessary for very minor contraventions and is a matter of judgment.

10.6.2 Officers will decide whether to revisit depending upon the health, safety, environmental damage, or nuisance implications of the contravention and the perceived likely response of the offender to any advice or request.

10.7 Revocation or Suspension of Licence, Authorisation, or Permit

10.7.1 In order to warrant revocation of a license, authorisations or permit, the individual or organisation must normally meet one or more of the following criteria:

- Deliberately or persistently breached legal obligations, which are likely to cause material loss or harm to others
- Deliberately or persistently ignored written warnings or formal notices
- Endanger to a serious degree, the health, safety or well being of people, animals or the environment
- Obstructed an officer while undertaking their duties

- Convicted of a breach of an absolute legal obligation

10.7.2 If revocation action is taken, the relevant parties will be made aware of any rights of appeal at the time.

10.8 Seizure

10.8.1 The Service will use powers of seizure under various pieces of legislation to:

- Seize unwholesome or contaminated food
- Seize equipment responsible for causing a noise nuisance
- Seize goods or equipment likely to cause danger to health and safety

in order to prevent them causing nuisance or harm to consumers , or other residents.

10.8.2 When officers seize goods or equipment a receipt will be supplied to the person from whom the goods are taken. The goods may subsequently be liable to forfeiture by the courts. If officers seize unfit food, it will be produced before a Magistrate as soon as possible for them to confirm the seizure and consider the fitness of the food. In certain circumstances, documents (hard copy or electronic) may be removed to ascertain if they are required by evidence. Officers will give full details of their actions to the offender when they exercise this power.

10.9 Injunctions

10.9.1 In exceptional cases, it may be considered that an injunction is the more appropriate course of action to remedy contraventions or dangerous circumstances.

10.9.2 An injunction may be sought from the courts where the circumstances of any case cause a significant problem or threat to an individual's health, and the normal process of law (statutory notices, prosecution or work in default) is likely to be ineffective due to the person responsible showing blatant disregard for earlier similar requests for action, or where the process of law would take an unacceptable period of time having regard to the particular circumstances.

10.10 Fixed Penalty Notices

10.10.1 Where legislation permits the use of fixed penalty notices, the Service will consider use of them as an alternative to prosecution. Examples of where they may be appropriate are:-

- To deal quickly and simply with less serious offences
- To divert less serious cases away from the court process
- To deter repeated offences

10.10.2 Before a fixed penalty is administered the authorised officer will ensure that there is evidence of the offender's guilt sufficient to sustain a prosecution.

10.10.3 Where legislation gives the Council flexibility to set the level of a fixed penalty charge, there will be regard to:-

- Any Government guidance on the level at which the fixed penalty is to be set
- The likely level of fine which a court would impose for a similar offence
- The need to deter offenders from opting for prosecution because they believe that the court would impose a lower level of penalty
- The cost of bringing a prosecution where fixed penalties were not paid

10.10.4 Where a fixed penalty notice is not paid within the specified time limit (usually 14 days) then the offender will always be prosecuted unless there are exceptional circumstances. Where it is decided that an unpaid fixed penalty notice should not be pursued by way of prosecution the reason for not pursuing the notice must be reported in the first instance to the Head of Planning and Environmental Health.

10.10.5 There is no right of appeal against a fixed penalty notice covered by this Policy as it only deals with criminal offences. A person served with a fixed penalty notice who believes they did not commit the offence has the right for their case to be heard in court.

10.11 Simple Caution

10.11.1 This procedure is used as an alternative to a prosecution. It derives from advice issued in Home Office Circular 30/2005 'Cautioning of Adult Offenders' and LACORS (Local Authority Coordinators of Regulatory Services) guidance.

10.11.2 For a Simple Caution to be issued, a number of criteria must be satisfied:

- Sufficient evidence to prove the case
- The offender must admit the offence
- The offender must agree to be cautioned
- Where the offence is not a serious one and could be dealt with swiftly to divert a less serious offence away from court

10.11.3 If the offender pleads guilty to, or is guilty of, committing another offence anywhere in England and Wales, the caution may be sited in court and this may influence the severity of the sentence that the court imposes for any subsequent offence.

11. Prosecution

11.1 The decision to prosecute is a serious and important part of enforcement that should be taken after full consideration of the implications and consequences. Decisions about prosecution will take account of Council policies and procedures, legal advice and opinion, specific guidance on enforcement action contained in Codes of Practice, guidance documents issued by the relevant coordinating bodies and the Code for Crown Prosecutors. Where appropriate, decisions to prosecute should be taken at the earliest opportunity.

11.2 The Council will only start or continue with a prosecution when the case has passed both stages of the full code test as detailed in the Code for Crown Prosecutors. These factors are not exhaustive and those, which apply, will depend on the particular circumstances of each case. The importance of each factor will be determined in the circumstances of each case and will be used to make an overall assessment.

11.3 As a general rule, a prosecution will not be undertaken without the offender being given a reasonable opportunity to comply with the law and every identified breach of legislation will not automatically result in the institution of legal proceedings. However, there are circumstances where

a contravention is particularly serious or there is a blatant or reckless disregard for the law and it is right to prosecute without a prior warning. Failure to comply with a Statutory Notice will normally result in a prosecution, except in cases where works in default may be more appropriate.

- 11.4 When considering the particular circumstances of a case, it may be appropriate to take more than one course of action. For example, statutory notices may be used to secure compliance in addition to the prosecution of the recipient of a notice for the non-compliance with the requirement addressed by the notice.
- 11.5 Where there has been a breach of the law leading to a work-related death, the Council will liaise with the police, coroner and Crown Prosecution Service (CPS) and, if there is evidence of manslaughter, will pass the case to the police.
- 11.6 The following circumstances are likely to characterise initiation and referral to the Head of Legal and Democratic Services
- The alleged offence involves a flagrant breach of the law such that employees, the public or the environment are put at risk of harm (or where significant commercial advantage is being gained as a result of the breach)
 - There appears to be reckless disregard for the health and safety of or nuisance to employees, the public, animal health and welfare or the environment
 - There have been repeated breaches of legal requirements in an establishment (or in various branches of a multiple concern) and it appears that any person responsible is either unwilling or incapable of dealing with them
 - The particular type of offence is prevalent in an area or activity
 - There has been a serious accident, nuisance or case of ill health resulting from a substantial legal contravention
 - Where a particular contravention or situation has caused serious public alarm or concern
 - Where there are persistent poor standards for control of health and safety hazards, nuisance or harm to the environment

- The alleged offence or situation involves a failure by the alleged offender to correct identified serious potential risks to health and safety, nuisance or harm to the environment, after having been given a reasonable opportunity to comply with statutory requirements
- The offence involves a failure to comply in full or in part with the requirements of a statutory notice or the simple caution procedure
- Where an enforcement officer has received verbal or physical threats or has otherwise been obstructed in the performance of their duties. In this instance, the prosecution would be considered in relation to the offence of obstruction of an officer, notwithstanding the nature or extent of the remaining breaches, (if any)
- Any other relevant matters that are contained within guidance issued by Government or Official Bodies

11.7 Criminal proceedings will be taken against those persons who are responsible for the offence where necessary. Where a company is involved, it will be usual practice to prosecute the company where the offence resulted from the company's activities. Action may also be taken against such officers (as well as the company) where it can be shown that the offence was committed with their consent, was due to their neglect or they chose to ignore the offence or the circumstances leading to it. In appropriate cases, consideration will be given to seeking the prohibition of the business proprietor under the appropriate specific statutes.

11.8 Enforcement action against employees will receive special consideration. Where appropriate, a warning letter will be preferred unless the matter is serious or the employee had received a prior warning from either his employer or the Council.

11.9 All cases will be kept under review and any changes in circumstances will be considered.

12. Court Proceedings

12.1 An authorised officer involved in a case will attend a court hearing, even if a guilty plea is entered and will be prepared to assist the court where necessary.

12.2 An authorised officer involved in a case will, where appropriate inform the Chartered Institute of Environmental Health or Health and Safety Executive of every conviction and will include such other information as

necessary so as to facilitate use by other Local Authorities and enforcing authorities.

- 12.3 An authorised officer will inform any Lead Authority or relevant agency of all formal action taken and the results of the prosecution and will notify where appropriate, any complainant or witness of the results of legal proceedings.
- 12.4 In cases of sufficient gravity, for example serious breaches of food safety or health and safety legislation, where circumstances allow, consideration will be given to requesting the Magistrates to refer the case to the Crown Court.
- 12.5 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of specific offences brought before them and will encourage the courts to make full use of their powers.
- 12.6 The Service will always seek to recover the costs of investigation and court proceedings.

13. Accepting Guilty Pleas

- 13.1 Defendants may wish to plead guilty to some, but not all of the charges put forward. Alternatively, they may want to plead guilty to a different, possibly less serious charge because they are admitting only part of the offence. The enforcement officer responsible for the case, in liaison with the Head of Planning and Environmental Health and the Council's Legal and Democratic Services Manager, should only accept the defendant's plea if they think the court is able to pass a sentence that reflects the seriousness of the offence. A guilty plea will never be accepted because it is convenient to do so.
- 13.2 In cases where a defendant pleads guilty to the charges but on the basis of facts that are different from the prosecution case, and where this may significantly affect sentence, the court should be invited to hear evidence to determine what happened, and then sentence on that basis.

14. Powers of Enforcement Officers

- 14.1 Enforcement officers have a variety of delegated powers to assist them in carrying out investigations. This can include the power to require answers to questions and the power to enter premises, usually during reasonable hours.
- 14.2 Access to properties is normally achieved by informal means by appointment with the occupier. If, however, there is a need to enter a premises and prior notice would be counterproductive or impracticable, a visit will be made without giving prior notice.
- 14.3 In appropriate circumstances, a Notice of Entry will be served or an application made to the Magistrates Court for a warrant to enter i.e. where access is refused, or the premises are vacant, or where giving notice would be counterproductive or impracticable.

15. Liaison and Working with Regulatory and Other Bodies

- 15.1 Where the Council has a shared or complementary regulatory role with other agencies they will liaise with that agency and inform them of an appropriate incident or occurrence.
- 15.2 External regulatory agencies include (but are not restricted to) the Police Authority, Health and Safety Executive, Other District and County Council services, Utility Providers, Fire Authority, Environment Agency and the Food Standards Agency.
- 15.3 The Service will not generally investigate or enforce where more specific legislation is enforced by another regulatory body or service. However, prompt liaison will be carried out with that other regulatory body to ensure the most efficient and effective outcome through co-ordination so as to avoid inconsistencies or duplication and to ensure that any action is taken by the most appropriate body and for the most appropriate legislative breach.

16. Home Authority Principle/ Lead Authority Partnership

- 16.1 Chester-le-Street District Council is committed to the Home Authority Principle and Lead Authority Partnership and will seek to promote them in accordance with the guidance issued by LACORS and the Health and Safety Executive where required.

- 16.2 The purpose of the scheme is to help businesses avoid contraventions of food and health and safety laws. Officers from the Council will offer advice at source, and encourage any other enforcement authority to work in liaison with the Council on enforcement issues concerning that business. These arrangements, however, can only be made where the head office is located within the district and the company has made an approach for Home or Lead Authority liaison.
- 16.3 When enforcement action is being considered against an organisation that has entered into a Home Authority partnership, officers will contact the home authority prior to the issue of proceedings or service of a statutory notice.

17. Customer Requests for Service

- 17.1 In accordance with the Council's Corporate Priority 1 – 'Customer Excellence', the Service will seek to deliver exemplary standards of customer care when dealing with customers in respect of enforcement matters.
- 17.2 This will be achieved in a number of ways depending on the circumstances of the service request and the Council will seek to investigate all requests for service promptly and in accordance with operational procedures.
- 17.3 Anonymous complaints are commonly received and reasons for wishing to remain anonymous vary. Anonymity does hinder investigation and comprehensive assessment of all relevant facts that are needed to come to a just and informed decision on the matter in many cases. However, all matters will be brought to the attention of the relevant investigating officer for any further action deemed appropriate.

18. Complaints about the Service

- 18.1 The Service undertakes regular customer satisfaction surveys and reviews all comments and complaints it receives regarding the nature and quality of its service and enforcement.
- 18.2 Complaints and expressions of dissatisfaction are seen as opportunities to identify possible weaknesses in service delivery and as a step towards making improvements. Information obtained from the investigation of complaints will be used to examine possible action to improve the service.

- 18.3 The Council has a corporate system for dealing with complaints. Complaints can be registered using the Complaints Procedure by contacting any officer within the Council, in writing, by telephone, via e-mail or face-to-face.
- 18.4 The full Corporate Complaints Procedure can be viewed on the Council's website at: www.chester-le-street.gov.uk and an explanatory leaflet 'Have your say - How to make a *compliment, comment or complaint* about the services we deliver' or can be obtained by contacting the Council in writing, by telephone, via e-mail or face-to-face

19. Access to the Enforcement Policy

- 19.1. This Policy will be made available on the Council's web site. Hardcopy versions will also be available on request and can be made available in an alternative language or format.

20. How to Contact Us

By telephone

You can use the telephone number on any correspondence we have sent to you, or telephone the Environmental Health Service (0191 3872199) or the Council's switchboard (0191 3871919).

In person

At the Customer Services Reception located in the Civic Centre Mall in Chester-le-Street (Monday to Thursday, 8.30am to 5pm and 8.30am to 4.30pm on Friday)

In writing

You can write to us at the following address:

Environmental Health
Planning and Environmental Health Services
Chester-le-Street District Council
Civic Centre
Newcastle Road
Chester-le-Street
County Durham
DH3 3UT

By fax 0191 3872165

By e-mail envirohealth@chester-le-street.gov.uk

21. Review

This Policy will be reviewed annually.

FOOD SAFETY ENFORCEMENT

1. Introduction

- 1.1 The Council recognises that it has an important role to play in food safety enforcement. It will ensure that sufficient resources are applied to this area of activity to allow them to achieve the standards prescribed in the Food Standards Agency “Framework Agreement on Local Authority Food Law Enforcement” and Codes of Practice.
- 1.2 The Council is committed to ensuring that food and drink intended for human consumption which is produced, stored, distributed, handled or consumed within the District is without risk to the health and safety of the consumer.
- 1.3 Enforcement action, be it verbal warnings, the issue of written warnings, statutory notices or prosecution, is based primarily upon an assessment of the risk to public health. This risk is the probability of harm to health resulting from non-compliance with food safety law.

2. Inspections

2.1 Primary Inspections

Primary food hygiene inspections shall be carried out in accordance with a planned inspection programme. Premises are selected for inspection using a risk-based priority rating system and in accordance the Food Safety Code of Practice. Delivery of the food premises inspection programme is defined within the Planning and Environmental Health Service Plan.

2.2 Inspection of New Food Businesses

New food businesses will be considered as being due for inspection on the day the section are notified of, or discover, their existence and a primary inspection of the business will take place as soon as practicable.

It is not normally the policy of the Council to prosecute businesses for failure to register where there are otherwise no breaches of food safety legislation. However, businesses that continually refuse to register or where there are major breaches will be considered for formal action in accordance with this Policy.

2.3 Inspection of Council-owned Premises

Council-owned food premises will be inspected in accordance with the same procedures that apply to other commercial premises. This will mean that they will be subject to the same risk-rating and inspection interval scheme. Any breaches of legislation will be reported to the appropriate Head of Service and Director.

3. Enforcement Options

3.1 Having considered all relevant information and evidence, the choices for action are:

- To take no action
- To take informal action
- To use statutory notices
- To use simple cautions
- To prosecute
- To use a combination, thereof

3.2 Guidance on enforcement options is contained in the Food Standards Agency Food Safety Code of Practice.

3.3 Compliance should normally be achieved through letters and advice and only in the more serious instances will formal enforcement through serving Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices be considered. Prosecutions are reserved for the most serious offences which either result or could have resulted in serious risk to public health or which represent a blatant disregard by employers, employees or of others in their responsibilities under food safety legislation.

4. Informal Action

4.1 Informal action to secure compliance with legislation includes offering advice, verbal warnings and requests for action, the use of letters, and the issue of inspection reports, including those generated on the premises following an inspection.

5. Formal Action

- 5.1 Before formal action is taken, officers will provide an opportunity to discuss the circumstances of the case, and if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed.)

6. Formal Action: Statutory Notices

The following statutory notices can be applied in the delivery of the food safety service:

6.1 Hygiene Improvement Notices

- 6.1.1 Hygiene Improvement Notices will be issued in any of the following circumstances or a combination thereof:-

- Where formal action is proportionate to risk
- There are significant contraventions of food safety legislation
- There is a history of non-compliance
- Where an authorised officer has reason to believe that an informal approach will not be successful, such as where confidence in management is low, or where an informal approach has been tried but has not been successful
- Action needs to be taken quickly to remedy serious and deteriorating conditions

- 6.1.2. Hygiene Improvement Notices will relate to the risk to health and will not be issued for minor technical contraventions.

6.2 Hygiene Emergency Prohibition Notices

- 6.2.1 A Hygiene Emergency Prohibition Notice will only be considered where an imminent risk of injury to health can be demonstrated and where one or more of the following circumstances exist,

- The consequences of not taking immediate and decisive action to protect public health would be unacceptable

- The criteria specified within the relevant statutory Code of Practice concerning the conditions where prohibition may be appropriate are fulfilled
- There is no confidence in the integrity of an unprompted offer made by a proprietor voluntarily to close premises or to cease the use of any equipment, process or treatment associated with the imminent risk
- A proprietor is unwilling to confirm in writing their unprompted offer of a voluntary prohibition

6.2.2 Hygiene Emergency Prohibition Notices must only be signed by authorised competent officers holding appropriate qualifications with relevant experience and who have witnessed the matters to which the notice relates. In all but exceptional cases, a second officer authorised to serve Hygiene Emergency Prohibition Notices shall also witness the offence.

6.2.3 Where the process or treatment under consideration requires the specialist knowledge of a technical expert, authorised officers will seek an expert opinion before taking a final enforcement decision.

6.2.4 The Head of Legal and Democratic Services must be contacted as soon as a decision is reached to serve a Hygiene Emergency Prohibition Notice to enable an application to the Magistrates' Court. It is a requirement that a Hygiene Emergency Prohibition Order is applied for within 3 working days of the Hygiene Emergency Prohibition Notice. Failure to do so will entitle the proprietor of a business to claim compensation.

6.2.5 Consideration must be given to other bodies which should be notified of any formal action and its outcome. Such bodies may include 'home' and 'originating' authorities, the Food Standards Agency and LACORS.

6.3 Voluntary Closure of Food Premises

6.3.1 Where any premises, process, treatment or equipment involves an imminent risk of injury to health and consideration is being given to Hygiene Emergency Prohibition Notice action, the proprietor of a business may offer to close voluntarily until the health risk is removed but this will never be prompted.

6.3.2 The following criteria must be fulfilled before a voluntary closure agreement is reached:

- There must be no risk of the premises being re-opened without the officer's knowledge and agreement
 - The proprietor must be willing to sign the voluntary closure form
 - The person signing the form, if not the proprietor, must have the authority of the proprietor or employer to agree to such voluntary action
- 6.3.3 The officer when considering Voluntary Closure should realise that there is no legal sanction against a proprietor who reopens for business after offering to close. However, enforcement action against the actual breaches remains available.
- 6.3.4 The officer should explain that in making the voluntary offer to close any right to compensation if a Court subsequently decides to make a Hygiene Emergency Prohibition Order is lost.
- 6.3.5 The officer will monitor the premises or the process or equipment to ensure that the agreement is complied with. The frequency and timing of inspection will be based on the potential for unauthorised resumption of use. This may require monitoring outside of normal office hours.
- 6.3.6 Where the officer receives a request to reopen the business or reuse the process or equipment they will arrange to visit the premises as soon as possible. If the officer considers there to be a continuing risk to health, they must confirm in writing that the voluntary agreement cannot be lifted and remains in place.
- 6.3.7 If the officer agrees that the health risk condition requiring the premises to close or the process or equipment not be used has been removed, he must confirm in writing that there is no longer a risk to health and that the premises are allowed to reopen or equipment to be reused. All correspondence will be retained on the commercial premises file.
- 6.3.8 In situations where the voluntary agreement is breached officers must assess if the health risk condition remains. If so, Hygiene Emergency Prohibition procedures and other legal proceedings as appropriate in the circumstances should be taken in accordance with in the Enforcement Policy.

6.4 Seizure and Detention

- 6.4.1 The use of the detention and seizure powers under food safety legislation will only be initiated in accordance with the prescribed action to be taken as outlined in the statutory Food Law Code of Practice.
- 6.4.2 Detention powers will be used if there is good reason to suspect that food does not satisfy food safety requirements and seizure powers where there is clear evidence of such a failure. Expert advice will always be obtained when using their powers.

HEALTH AND SAFETY ENFORCEMENT POLICY

1. Introduction

- 1.1 The Council recognises that it has a vital role to play in health and safety enforcement. It will ensure that sufficient resources are applied to this area of activity to ensure improving levels of compliance and to make positive moves towards achieving the government's targets.
- 1.2 The Council is committed to protecting the health, safety and welfare of employees and to safeguard others who are not employed at a workplace, but who are affected by the work activities taking place. This will be achieved through the inspection of premises, the investigation of complaints and accidents and the enforcement of relevant health and safety legislation, as well as proactive publicity and information campaigns aimed at specific issues.
- 1.3 Officers will carry out their duties in a fair and equitable and consistent manner. While officers are expected to exercise judgement in individual cases, arrangements will be in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies such as the Health and Safety Executive and Local Authority Unit. Where there may be a shared or complimentary role with other agencies consideration should be given for effective liaison in appropriate circumstances, such as with Council-owned premises.
- 1.4 Where a Lead Authority Partnership arrangement is in place for a particular employer, the lead authority will be contacted in appropriate cases and will be kept advised on the progress and outcome of any enforcement action.

2. Approach to Enforcement

- 2.1 Having considered all relevant information in the light of the HSE Enforcement Management Model and all other evidence, the choices for action are:
 - To take no action
 - To give verbal advice

- To take informal action
 - To use statutory notices
 - To use simple cautions
 - To prosecute
 - To use a combination, thereof
- 2.2 Compliance will normally be achieved through letters and advice and only in the more serious instances should formal action using improvement or prohibition notices be considered. Prosecutions should be reserved for the more serious offences where either result or could result in serious injury or ill health or which represent a blatant disregard by employers, employees or others of their responsibilities under health, safety or welfare legislation.
- 2.3 The Council recognises the importance of achieving and maintaining consistency in their approach to making all decisions in relation to health and safety enforcement action including prosecution. To achieve this, guidance in statutory codes of practice, HELA Circulars and advice offered in relation to the Lead Authority Principle is always considered and followed where appropriate.
- 2.4 The Council as an enforcing authority will seek to secure compliance with the law. Most of its dealings on which the law places a duty (employers, the self-employed, employees and others) are informal involving the offer of information, advice and support, both verbally and in writing. However, formal enforcement mechanisms, as set out in health and safety law including improvement notices where a contravention needs to be remedied; prohibition notices where there is a risk of serious personal injury, simple caution, or ultimately prosecution.
- 2.5 The Council recognises that education, advice and training of people with responsibilities for health and safety in the workplace as being as important as inspection and enforcement. To this end, it has and will continue to adopt initiatives to ensure a better-informed business community and thus reduce the need to rely solely on the regulatory framework for compliance with health and safety responsibilities.
- 2.6 In carrying out its duties the Council will apply the principles of proportionality, transparency, consistency and openness. In particular, the Council recognises the difficulties many small businesses face and will endeavour to engage with them appropriately.

3. Statutory Notices

- 3.1 Before formal action is taken, officers will provide the duty holder an opportunity to discuss the circumstances of the case and if possible, resolve points of difference, unless immediate action is required.
- 3.2 At the time when formal action is initiated, a copy of the leaflet, such as, "What to expect when a health and safety inspector calls" will be given to the duty holder.
- 3.3 Where immediate action is taken, an explanation of why such action will be required will be given at the time and confirmed in writing in most cases.
- 3.4 An Improvement Notice will be issued only when the officer is of the opinion that there is or has been a contravention of one or more of the relevant statutory provisions at the time of the visit, in circumstances that make it likely that the contravention will continue.
- 3.5 Prohibition Notices can be issued to have an immediate or deferred effect. Notice will only be served if the officer is of the opinion that there is, or will be a risk of serious personal injury.
- 3.6 Where there are rights of appeal to an Employment Tribunal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.
- 3.7 When an Improvement or Prohibition Notice is served, a second copy is enclosed marked for the attention of employee or their representatives.
- 3.8 Officers can consider both prosecution and notice procedures in the following circumstances:
 - In a situation where conditions are so hazardous that even when a prohibition notice is served prosecution may also be merited
 - If the prosecution is taken in the circumstances of an accident, a notice may also be used to enforce the remedy. In these situations, the information should not be laid until after the appeal period of the notice has passed. (21 days) and any appeal has been heard
- 3.9 Simple Cautions will be administered in accordance with the Enforcement Policy. This derives from advice given from the Home Office.

4. Accidents

- 4.1 All accidents reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) at workplaces where the Council are the enforcing authority will be monitored on the Incident Contact Centre (ICC) website.
- 4.2 All accidents will be investigated following departmental operational procedures and with regard to the Health and Safety Executive's Incident Selection Procedure'.
- 4.3 Investigations will be undertaken to identify underlying causes and to learn lessons in order to prevent possible recurrences and to detect legislative breaches. In order to maintain a proportionate response most resources will be devoted to more serious accidents.

5. Work- Related Deaths

- 5.1 Where there has been a breach of law leading to a work-related death, authorised officers will consider whether the circumstances of the case might justify a charge of manslaughter. They will liaise with the police and coroners and the Criminal Prosecution Service (CPS) and where they find evidence suggesting manslaughter is found they will fully co-operate with the police. Where the police or the CPS decides not to pursue a manslaughter case, officers may then proceed to prosecute under health and safety legislation if that is appropriate.

6. The Enforcement Management Model

- 6.1 The Enforcement Management Model was introduced by the HSE to improve transparency and consistency between enforcement bodies. Officers will have regard to the Model which is designed to determine the most appropriate course of action based on the circumstances of a particular case.

PUBLIC HEALTH AND HOUSING ENFORCEMENT POLICY

1.0 Introduction

1.1 The Council recognises its statutory responsibilities for promoting, protecting and enhancing the health, safety, welfare and well being of those who live in or own property within Chester-le-Street District.

1.2 The Service is responsible for enforcing a wide range of statutory provisions relating to housing and environmental conditions affecting health and safety. Our aim is to ensure that residents are protected from sub-standard housing and poor public health conditions.

1.3 The nature and scope of enforcement action applies to all forms of housing. In addition to the Housing Acts, related public health powers can be used and include:

- Regulating standards of repair, amenity and safety in the private rented sector and dealing with housing hazards
- Restoring vacant properties and bringing them back into occupation
- Regulating standards of management, repair, amenity and safety in house in multiple occupation
- Investigation and abatement of public health nuisances in relation to housing. Dealing with statutory nuisances, filthy and verminous premises, accumulations of refuse, securing unoccupied premises where they are open to access or present public health risks, drainage defects and public health infestations
- Investigation and elimination of pests and vermin infesting land and persons as may be appropriate
- Formal declaration of area priorities, such as renewal areas and clearance areas, including any action resulting from the declaration
- The use of compulsory purchase powers

2.0 Enforcement Approach

- 2.1 In exercising their duties and responsibilities, officers will seek to do so in a firm, but fair, open, consistent and helpful way when deciding what action to take to ensure that property owners, tenants, landlords and owner occupiers comply with public health and housing legislation.
- 2.2 We recognise that the majority of property owners, tenants, landlords and owner occupiers want to comply with the law. We will therefore take measures to help these people meet their legal obligations without unnecessary expense while taking action against those who attempt to avoid their responsibilities.
- 2.3 Enforcement officers, by necessity, have considerable discretion in decision making and initiating enforcement action. They will endeavour to ensure compliance with legislation is achieved through informal means, wherever possible. They will strive for a positive working relationship with individuals and businesses and will consider mitigating circumstances when considering appropriate action.
- 2.4 This policy seeks to support the Council's Corporate aims, objectives and strategies with respect to private sector housing, such as improving conditions, increasing the supply of affordable housing and the prevention of homelessness.
- 2.5 In managing the public health and housing enforcement process, the Council is committed to ensure good quality, healthy housing for all, targeting that which presents the greatest risk to health and safety. In order to achieve this priority the Council aims to:
- Work in co operation with owners, agents and tenants through the provision of clear advice, guidance, training, encouragement and the planning of improvements
 - Utilise all appropriate levels of enforcement action to achieve standards in properties found to be jeopardising the health, safety or welfare of individuals and will, where legislation allows, make an appropriate charge for doing so
 - Regularly review its policy, standards, schemes and methods of assessing risk and will in doing so, consider the views of interested parties and individuals. All such policies and standards will be made available to all interested parties
 - Carry out its professional judgement and decision making responsibilities efficiently and effectively in a way which is open,

clear and helpful to owners and occupiers and affirms its commitment to achieving consistent, balanced and fair enforcement

- Liaise with other local authorities and consult government guidance to ensure a consistent approach to the interpretation and enforcement of public health and housing legislation
- Engage in partnership working where there is a shared enforcement role and where it is in the public interest to share information concerning regulatory non compliance

3.0 Levels of Enforcement

3.1 The Council is granted extensive enforcement powers to secure improvements in the areas of public health and housing. In order to achieve and maintain consistency the following range of enforcement options will be used as appropriate:

- To take no action
- To serve a Hazard Awareness Notice
- To use an Improvement Notice
- To use an Emergency Remedial Action Notice
- To use an Emergency Prohibition Notice
- To use a Demolition Order
- To declare a Clearance Order

3.2 The Housing Health and Safety Rating System (HHSRS) is a new method for assessing the living conditions in a dwelling. It is a method of assessing the risk to the health and safety of vulnerable occupants to 29 hazards.

3.3 HHSRS is a technical assessment to obtain a score. A Category 1 Hazard means a hazard that, after calculation using the prescribed method, is banded A, B, or C. Category 2 Hazards are those banded D or lower.

- 3.4 Authority's have a duty to act on all Category 1 Hazards following inspection and assessment. They have a discretionary power to act on Category 2 Hazards.
- 3.5 In the case of Category 2 Hazards, the powers of Emergency Remedial Action, Emergency Prohibition notices, Demolition Orders and Clearance Areas are not available.
- 3.6 The enforcement options available are explained below.

4. Hazard Awareness Notice

- 4.1 This notice is a method of formally notifying the person in control of a property that hazards exist. There is no appeal and the notice is not registered as a land charge.
- 4.2 Hazard Awareness notices will normally be used to deal with minor hazards. They may be considered to deal with Category 1 hazards where a landlord has given a written undertaking to carry out work in a specified time or to inform an owner occupier of hazards in their property.
- 4.3 Officers must be able to justify why a more lenient approach has been taken.

5. Improvement Notice

- 5.1 An Improvement Notice can be served regarding both Category 1 and 2 hazards. It must as a minimum remove all Category 1 hazards and should prevent them recurring for at least 12 months. A notice can relate to more than one hazard, and wherever possible category 1 and 2 hazards in a property will be dealt with in one notice.
- 5.2 Time scales for remedial works to begin must be 28 days or more from the date of the notice. Different time scales can be set for different hazards in the same notice.
- 5.3 Any appeal is to the Residential Property Tribunal and must be made within 21 days of the service of the notice.
- 5.4 Once the notice has been complied with it must be formally revoked in writing. Improvement notices are registered as land charges.

6. Emergency Measures

6.1 Where the officer is satisfied that a Category 1 hazard presents an imminent risk to the health and safety of an occupant or other person, emergency measures may be taken. This could be either:

- Emergency Remedial Action – officers may enter a property with a warrant if necessary, and take action to remove the imminent risk of serious harm. This must be followed by a formal notice within 7 days
- Emergency Prohibition Order – officers may enter a property with a warrant if necessary, to prohibit the use of part of the property. The Order takes effect immediately and copies must be served on all persons involved as soon as possible

7. Demolition Order

7.1 This is a possible course of action where Category 1 hazards are found to exist. In deciding to use this power, the Officer would need to consider the following:

- The availability of accommodation to re-house occupants
- The prospective use of the cleared site
- The impact on the local environment of a cleared site

8. Clearance Area

8.1 The Council may declare a clearance area where they are satisfied that each of the residential buildings in the area contain one or more category 1 hazards or where the residential buildings in the area are dangerous or harmful to the health or safety of the inhabitants as a result of their bad arrangement or the narrowness of the streets. Other non-residential buildings may be included in the clearance area.

9. Powers of Entry

9.1 Authorised officers have the power to enter properties to carry out their duties. A minimum of 24 hours must be given to the owner and the occupiers of the intention to enter.

- 9.2 If this prior notice is unsuccessful, application may be made to obtain a warrant from a Justice of the Peace. A warrant includes the power of entry by force if necessary.
- 9.3 A warrant may also be obtained in cases where prior warning is likely to defeat the purpose of entry.
- 9.4 Officers have the power, by service of notice, to require documents to be produced in connection with its enforcement. The notice will specify the consequences of not complying.

10. Non-compliance

- 10.1 Where a notice or order has not been complied with, the officer will consider the following options:
- Carry out the work in default
 - Prosecution
 - Carry out the work in default and prosecute
 - Administer a Simple Caution

11. Power to Charge for Enforcement Action

- 11.1 Reasonable charges can be made as a means of recovering expenses incurred in serving an improvement notice or making a prohibition or demolition order.

12.0 Houses in Multiple Occupation (HMO's)

- 12.1 Houses in Multiple Occupation in the District will be identified and an assessment of each property under an approved risk assessment process will be conducted. The risk assessment may result in a schedule of works.
- 12.2 When a complaint is received regarding a House in Multiple Occupation, a similar risk assessment will be carried out.
- 12.3 Formal action will not be taken in relation to fire precaution works without consulting the appropriate Fire Officer.

13.0 Mandatory Licensing of Houses in Multiple Occupation

- 13.1 The Council will ensure that premises which require a licence under the provisions of the Housing Act 2004 are properly licensed and comply with licensing conditions in order to protect the health, safety and welfare of the occupants and those with an estate or interest in the property and in order to secure compliance with the relevant legislation. In addition to any enforcement action, a Management Order may also be made.

14.0 Empty Properties

The Council is committed to reducing the number of empty homes, thereby increasing housing choice, reducing homelessness, improving environmental condition, reducing statutory nuisance to neighbouring properties, aiding neighbourhood renewal and reducing the fear of crime.

POLLUTION PREVENTION CONTROL ENFORCEMENT

1.0 Introduction

- 1.1 The Council will strive to secure efficient and effective compliance with the requirements of the Pollution, Prevention and Control Act 2000 in a way which will ensure a high level of environmental protection and minimise the burden to businesses operating prescribed industrial processes.
- 1.2 The primary responsibility for protecting public health and the quality of the environment lies with those who create the risks, and in particular process operators need to recognise their responsibility.
- 1.3 The Council is responsible to administer the various pollution control regimes in respect of industrial installations and processes which operate in the District known as:
 - Local Authority Integrated Pollution Prevention and Control (LA-IPPC) covering installations known as A2 installations
 - Local Authority Pollution Prevention Control (LAPPC) which covers installations known as Part B installations

2.0 Enforcement Approach

- 2.1 Enforcement of local authority pollution prevention control will involve the prior consideration of an application and whether to issue or refuse a permit with conditions. The Council will work together with industry to ensure that the complex procedures from application to compliance with permit conditions and the submission of proposals for up-grading are achieved efficiently and effectively.
- 2.2 Process operators are required to comply with both procedural and operational conditions. Failure to do so in either instance could mean a technical offence has been committed. The likelihood of technical contraventions can be reduced considerably if process operators are made fully aware of, and fully understand, their responsibilities in advance.

- 2.3 The Council will give what assistance it can to inform businesses of their responsibilities, any changes resulting from National Air Quality objectives and to ensure that where possible, issues are resolved prior to the formal stages of making an application for a permit or change before submitting proposals for upgrading.
- 2.4 Following the issue of a permit, this Council will want to ensure that permit conditions are complied with. This will be achieved by a combination of self-regulation and local authority monitoring. Depending on the circumstances, this Council will use a variety of ways to ensure that process operators meet their responsibilities under the legislation and under the terms of their permit.
- 2.5 The extent to which a balance between self-regulation and monitoring will be achieved will depend on a risk assessment which will govern inspection priorities. The attitude and general record of the operator and the robustness of the systems in place to ensure compliance will influence this decision in each case.

3.0 Levels of Enforcement

- 3.1 The following levels of enforcement provide a framework in which this Council will determine their action. The framework of enforcement is relevant whether it be in respect of an application for initial permit, an upgrade, or compliance with permit conditions:
- Informal action
 - Enforcement notice
 - Suspension notice
 - Revocation of permit

3.1 Informal Action

- 3.1.1 The Council will assist businesses through pre-application discussion, giving general oral advice as to standards required and advice in writing on minor defects or minor items of non-compliance requiring attention.
- 3.1.2 Premises inspection will be carried out to ensure compliance following issue of a permit through the application of a risk assessment method. Advice, discussion and requests for further action will be determined during inspections.

3.2 Enforcement Notice

3.2.1 Enforcement notices to achieve compliance will be applied where there are more serious breaches of conditions or repeated failure to remedy minor defects or non-compliances.

3.3 Suspension Notice

3.3.1 Suspension notices will be used only where there is concern about imminent risk of serious pollution.

3.4 Revocation of Permit

3.4.1 Revocation of a permit will only be used where other remedies would be considered inadequate or not appropriate to the circumstances.

3.5 Factors considered when deciding on appropriate level of enforcement action

3.5.1 A decision on what level of initial enforcement is necessary will take into account:

- The environmental impact of the offence
- Where the offence or circumstances leading to it are foreseeable
- The intent of the operator
- History of the operator
- Attitude of the operator

LICENSING ENFORCEMENT

1.0 Introduction

1.1 The Council as Licensing Authority is committed to protect the health, safety and welfare of the public, employees and animals who may be exposed to risks from licensed or licensable activities and where appropriate to minimise impact on the environment and community safety.

1.3 The overall aim of the licensing is to ensure that all activities required by statute are licensed and any conditions attached to those licenses are being complied with.

1.4 The Council has the responsibility to advise, determine and enforce a number of licensing regimes. The areas covered by this policy include:

- **Regulated entertainment** involving music, singing and dancing, indoor sports, films and plays
- **Sale and supply of all alcohol** whether for consumption on or off the premises
- **Late Night Refreshment** after 23.00hrs
- **Animal health and welfare** covering animal boarding establishments, pet shops, riding establishments, dog breeding, zoos, dangerous wild animals and game dealers
- **Fund Raising Activities** including street collections and lotteries
- **Gambling activities** covering premises licences, permits and registrations
- **Hackney carriage and private hire** vehicles, drivers and private hire operators and proprietors
- **Miscellaneous activities** including sex establishments, scrap metal dealers, street trading, ear piercing, tattooing and acupuncture

3.0 Approach to Enforcement

- 3.1 Authorised officers will exercise the principles of transparency, helpfulness, proportionality, consistency and targeting in deciding on the correct enforcement approach.
- 3.2 Enforcement activities will be targeted towards situations which carry higher risks or where there is or could be a considerable impact as a result of the non-compliance with the law.
- 3.3 Enforcement activities may also be targeted towards individuals who are primarily responsible, who have the greatest responsibility to ensure compliance with the law or who have been the subject of previous enforcement action.
- 3.4 From time to time, the Council will engage in enforcement initiatives which are directed towards issues where there is a need to draw attention to the existence of legislation and its enforcement.
- 3.3 Each case shall be decided on its merits and an informed decision made which is proportionate to the alleged offence and consistent with other similar cases. When an authorised officer witnesses a breach in licensing legislation they are required to make a decision on what correct action should be taken. This will result in a judgement of the most appropriate level of enforcement to take, such as informal action, formal action and prosecution. Enforcement activities shall always be targeted towards situations which carry higher risks to the public or occupiers of the premises.
- 3.4 The most appropriate legislation and associated enforcement agency shall also be considered. Where there is a breach of planning conditions, planning enforcement may be a more suitable method of dealing with the situation. For some licensing functions, other enforcement agencies may choose to take their own enforcement action, for example, under age sales of alcohol, where Trading Standards may be a more appropriate method of dealing with the situations.

4.0 Levels of Enforcement

- 4.1 The level of enforcement will be dependant upon the degree of risk to persons at work, the public and the environment. Enforcement action may be taken as a result of an incident, a complaint or an inspection. There are two distinct facets to enforcement, which may be taken to mean either of the following:

4.1.1 Enforcement for Compliance

- This ensures that the Council have inspection programmes in place for monitoring compliance by businesses and individuals in accordance with legislation affecting their operation
- Inspection programmes may be risk-based while other inspections may be set at pre-determined intervals
- In view of the diversity of requirements under different legislation and guidance, it is not practicable in this document to be prescriptive about the ways in which inspection programmes are organised and monitored. However, programmes or visits will be arranged to satisfy the needs of particular legislation

4.1.2 Enforcement for non-compliance

- The options available for taking action against businesses or individuals for ignoring or otherwise failing to comply with their legal obligations are
 - Written warnings (sometimes known as Informal Notices)
 - Review of Premises Licences
 - Suspension or revocation of a licence/registration

5. Written warnings

5.1 Written warnings may result from a service request investigation or a routine inspection visit. They will be used in respect of minor offences or where there is a good record of compliance previously known and there is certainty of a written warning achieving the outcome required.

6. Review of Premises Licences

Certain licensing regimes in particular the Licensing Act 2003 and Gambling Act 2005 allow the Licensing authority to review licences. In the case of the Licensing Act this process can only be initiated by a responsible authority or interested party whilst the Gambling Act allows the Licensing Authority itself to request a review. In cases where a

legitimate request for a review is received the matter will be referred to the Council's Licensing Statutory Committee.

7. Suspension/Revocation

- 7.1 In some circumstances, the suspension or revocation of a Licence or Authorisation may be used as an enforcement tool.
- 7.2 Whilst this is a legitimate enforcement action, it may involve the removal of livelihood. Accordingly, suspension/revocation is used only as a last resort in serious situations, when other sanctions are either inappropriate, or have been tried without success.

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Chester-le-Street District Council

Report to:	Full Council
Date of Meeting:	20 th December 2007
Report from:	Housing Strategy Manager
Title of Report:	Affordable Housing Policy
Agenda Item Number:	

1. PURPOSE AND SUMMARY

- 1.1 The purpose of this report is to seek approval of the amendments to the Affordable Housing Policy.
- 1.2 A Housing Needs survey completed on behalf of the Council by DCA consultants suggested that to meet the future housing needs 30% of any new developments should be made affordable. The Council is therefore obliged to have a policy in relation to these homes ensuring that properties are allocated to those most in need.

2. CONSULTATION

- 2.1 This is a revision of the policy however comments have been requested from the Housing Strategy Team and the Housing Strategy Focus Group.

3. CORPORATE PLAN AND PRIORITIES

- 3.1 The implementation of the Affordable Housing Policy would make a contribution in particular to:
 - Priority1, Customer excellence, providing affordable housing allowing housing to be accessible by all the community.
 - Priority 2, Working in Partnership to deliver the Community Strategy, delivering affordable housing to those in need.

- Priority 4, Regenerating the District by contributing to sustainable communities.

4. IMPLICATIONS

Financial implications and Value for Money Statement

4.1 There are no financial implications arising from this policy.

4.2 Legal

There are no direct legal implications arising from this report. However it is a requirement to have a policy in place to ensure the affordable housing is going to those in most need.

As a council we have an obligation to assist those local people who cannot gain access to properties they can afford in a place they wish to live.

4.3 Personnel

There are no personnel implications arising from this report.

4.4 Risk

The risks associated with not producing an affordable housing policy would be:

- Affordable housing not being delivered to those in most need
- Not creating sustainable communities

4.5 Diversity

This Policy is critically important to the council in terms of equality and diversity. This Policy aims to deliver affordable housing to those in most need including diverse groups or households, ensuring the service we provide meets the needs of the wider community.

4.6 Data Quality

Every care has been taken in the development of this Strategy to ensure that the information and data used in its preparation are accurate, timely

and comprehensive. The council's Data Quality Policy has been complied with in producing this report.

5. BACKGROUND, POSITION STATEMENT AND OPTION APPRAISAL

- 5.1** The objective of this Policy is to contribute to the creation of sustainable communities by ensuring that a proportion of affordable homes for sale, within new private developments, are allocated to those people with the greatest need, in a fair and transparent manner at an affordable price.

Policies for affordable housing must consider:

- Households whose incomes are well below the levels required for homeownership and who are likely to need to rent their homes on a long term basis.
- Households who aspire to homeownership but can only afford properties in lower price ranges.
- Households with special needs who may require both subsidised accommodation and appropriate support in order to live in it successfully.

This Policy ensures a better mix of housing tenures, as this is important if we are to ensure a sustainable future for housing and areas. It is equally important to ensure that diversity exists in all new housing developments and we must seek to develop social housing alongside housing built for homeownership and private renting. If communities are to grow and prosper, people need opportunities to meet their aspirations, including homeownership, in the areas where they have grown up. At the same time, such communities must be able to attract new people to join them.

- 5.2** This is a review of the policy agreed in Aug 2006 and the following issues have been raised throughout this time:

- No points were awarded to those applicants already living within the district of Chester-le-Street. This saw households from outside the area attracting more points and subsequently being nominated prior to those in the district.
- No financial assessment was made of a household. This saw households applying and subsequently being nominated in a financial position to be able to purchase on the open market. It is proposed in the changes to ask for financial information.
- No points were awarded to those households who were threatened with homeless. These households are one of the groups of people in most need.
- No points were awarded to those households who may have left the areas however wish to return or have a family connection.

6. RECOMMENDATIONS

6.1 Members are recommended to approve the changes and to adopt revised Affordable Housing Policy.

7. BACKGROUND PAPERS / DOCUMENTS REFERRED TO

7.1 Affordable Housing Policy

AUTHOR NAME	Lynn Hall
DESIGNATION	
DATE OF REPORT	6 th December 2007
VERSION NUMBER	1
AUTHOR CONTACT	Lynn Hall 0191 3872239 lynnhall@chester-le-street.gov.uk

AFFORDABLE HOMES NOMINATION POLICY

Sept 2007

1. Introduction

It is important that everyone in the district has access to housing in an area where they want to live and a price they can afford. The council is committed to assisting local people who cannot gain access to such accommodation.

A key priority within the Housing Strategy is to supply - Affordable Housing – providing quality and choice. The Council is therefore obliged to have a policy in relation to these homes ensuring that properties are allocated to those most in need.

In August 2006 the Council agreed the current Affordable Housing Policy with an agreement that this policy would be reviewed after one year.

A Housing Needs survey completed on behalf of the Council by DCA consultants suggested that to meet the future housing needs 30% of any new developments should be made affordable.

2. Policy Context

Affordable housing is defined by Planning Policy Statement (PPS) 3 as both social rented housing and other 'intermediate' housing products that are below market prices or rents. It is designed for those who cannot access or afford market housing ranging for example from vulnerable people to key workers.

The objective of this Policy is to contribute to the creation of sustainable communities by ensuring that a proportion of affordable homes for sale, within new private developments, are allocated to those people with the greatest need, in a fair and transparent manner at an affordable price.

Policies for affordable housing must consider:

- Households whose incomes are well below the levels required for homeownership and who are likely to need to rent their homes on a long term basis.
- Households who aspire to homeownership but can only afford properties in lower price ranges.
- Households with special needs who may require both subsidised accommodation and appropriate support in order to live in it successfully.

This Policy ensures a better mix of housing tenures, as this is important if we are to ensure a sustainable future for housing and areas. It is equally important to ensure that diversity exists in all new housing developments and we must seek to develop social housing alongside housing built for homeownership and private renting. If communities are to grow and prosper, people need opportunities to meet their aspirations, including homeownership, in the areas where they have grown up. At the same time, such communities must be able to attract new people to join them.

3. What is Affordable Housing

Affordable Housing is housing designed for those households whose income would normally deny them the opportunity to purchase houses on the open market. This could include both social rented accommodation or properties to purchase.

There are 3 main tenure options:

- **Shared Ownership** – This scheme allows the purchaser to buy a share of the home, usually 50% and then leases the remaining 50% from a RSL and pays rent on the remaining share.
- **Discount Home Ownership** – The purchaser buys the property at a fixed discounted price. In the event of a resale the purchaser must sell at the same level of discount.
- **Affordable Homes to rent** – These are homes that are owned and managed by a Registered Social Landlord (RSL). These will provide a good standard of rented accommodation for those on lower incomes and not able to purchase property.

4. Planning Applications

The Council is committed to the development of balanced and mixed communities and acknowledges the one way of achieving this is by providing affordable housing within any new development throughout the Chester-le-Street District.

The district plan states where a development site has a capacity of 15 or more dwellings (or the site exceeds 0.5 hectares regardless of the number of dwellings) provision of affordable housing will be sought on the basis of the initial indicative target figure of 30%.

In order to deliver the mixed communities as advocated in PPS3 the Council will not support any planning application that does not show 'pepper potting' of the affordable housing units. It is appreciated however that this is not always possible for example in the case of flats or apartments therefore in such cases smaller clusters will be considered appropriate.

The Council will expect the design of the affordable units to be built to a high standard and should be of similar size and quality to those offered on the open market. Essentially the test will be that there should be no distinction between the affordable dwellings and those to be built for private sale. Furthermore, it would be expected that the affordable units will be offered with the same facilities i.e. car parking spaces.

Prospective developers seeking advice on likely affordable housing requirements as part of a development proposal should contact Officers in the Council's Planning Services Team prior to the submission of any planning application.

5. Marketing

The Housing Strategy Team will liaise with the developer or the RSL to discuss the best possible option for marketing the schemes. The Affordable Housing Policy will be promoted together with other Housing Options.

6. Eligibility Criteria

In order to be eligible to as a Nominee the Applicant(s) must:

- Live in the District of Chester-le-Street, unless there are insufficient applicants from the District for the number of Nominees required;
- Be aged 18 or over;
- Not be subject to immigration control under the Asylum and Immigration Act 1996 unless granted refugee status or exceptional or indefinite leave to remain with no conditions or limitations;
- Not be guilty of previous unacceptable behaviour which makes them unsuitable to be a Nominee (for example be subject to an ASBO or of a previous Possession Order);
- Demonstrate that their financial position is well below the levels required for homeownership and are therefore unable to purchase suitable accommodation or are likely to need to rent their homes on a long term basis;
- Be able to demonstrate and evidence that they have a local housing need in line with the following points matrix:

NEED	POINTS
Living in Chester-le-Street District for the past 2 continuous years.	20
Lived in Chester-le-Street District previously and has a family connection in the area or; Key worker (i.e. NHS staff, teacher, police, prison service, probation service, fire /rescue service) based within the Chester-le-Street District.	10
Single person living with friends or family.	5
Couple living with friends or family.	10
Single adult or couple with one or more Children living with friends or family.	20
Family with child under 11 living above the ground floor.	5
Current property without inside toilet.	10
Current property without bath or shower.	10
Current property without hot water.	10
Current property without heating.	10
Current property without kitchen.	10
Shortage of bedrooms.	10 points for each bedroom short
Victim of domestic violence, sexual or racial harassment or witness or victim of crime.	20
Need to move to access specialist medical treatment, employment, training, or educational opportunities.	10
Households who are Homeless or threatened with Homelessness	10

7. Implementation

The Strategic Housing Team within the Council is responsible for implementation of the policy.

The Council will:

- Publicise the availability of affordable homes and will invite applications from those persons who consider themselves suitable.

- Maintain a list of suitable applicant(s) 'Nominees' and will provide the names of eligible Nominees to those persons responsible for disposing of the affordable home(s).
- Provide the names of Nominees in accordance with any terms outlined in any contract or agreement to those persons responsible for disposing of the affordable homes(s).

The Council is not required to provide finance or financial advice for the purposes of enabling residents to purchase properties under this scheme.

The Policy will adhere to the principles of the Human Rights Act and is subject to the Data Protection Act.

The Strategic Housing Team will pass on the details of successful Nominees to the developer of the new property, subject to the Nominees meeting the eligibility criteria above, and with priority given to those with the most points according to the points matrix above.

Nominations will be made on the following basis:

- 1 bedroomed properties: single person;
- 2 bedroomed properties: single person, couples or households with a maximum of 2 children (under the age of 11 if mixed sex), or with children who do not live with them but have regular access;
- 3 bedroomed properties: households with 2 or more children or households with 3 or more single adults;
- 4 bedroomed properties: households with 3 or more children or 4 or more single adults.

In the event of any changes to circumstances, at any point up to the completion of the purchase of the property, which might have a material effect on the points to which an Applicant qualifies, the Applicant must inform the strategic housing team at the Council of those changes. Prior to nomination, the Council will amend the points allocated to the Applicant. Between nomination and completion, the Council will reserve the right to do so.

10. Appeal of Decision

Applicants will have the right to appeal to the Housing Options Manager against any decisions made by the Council relating to eligibility or points allocations. In the event the Housing Options Manager having involvement in the original application the appeal will be dealt with by the Housing Strategy Manager.

Any appeal should be in writing by the applicant stating why they think the case has been unfairly treated.

11. Review

The policy will be evaluated, both in terms of impact in contributing to its policy goal of contributing to sustainable communities, and in terms of the way in which it is implemented, on a regular basis, through contact with samples of Nominees to affordable housing and outstanding Applicants.

The Policy will be re-assessed on an annual basis, or more regularly if necessary, and will if necessary be amended to take into account the results of the evaluation process outlined above, as well as any changes in any relevant legislation, Council policy or procedure.

11. Complaints

Complaints can be made at any time through the Council's Complaints and Compliments process.



Chester-le-Street District Council

Report to: The Council

Date of Meeting: 20 December 2007

Report from: Housing Options Manager

Title of Report: Bond Scheme

Agenda Item Number:

1. Purpose and Summary

- 1.1 The purpose of this report is for the Council to consider the introduction of a Bond Scheme to assist those who are unable to access the private rented sector and to assist those who are homeless or at risk of homelessness.

2. Consultation

- 2.1 Consultation has taken place with the Chester le Street Homelessness Forum, The Head of Regeneration and the Housing Strategy Manager.
- 2.2 Staff within the Housing Options Team have been invited to comment.

3. Corporate plan and Priorities

- 3.1 The implementation of the Bond Scheme would make a contribution in particular to:
- Priority 1, Customer excellence, Increasing our prevention measures and providing an excellent Housing Options Service accessible by all the community.
 - Priority 2, Working in Partnership to deliver the Community Strategy, engaging people in the development of services in Chester-le-street for People threatened with Homelessness and to develop services for victims of Domestic abuse
 - Priority 4, Regenerating the District, working with partners and customers to regenerate services amongst the diverse community who may be threatened with Homelessness.

4. Implications

4.1 Financial Implications and Value for Money Statement

Chester le Street Housing Options Team have been awarded a £35000 grant for 2007/2008 from the Department of Communities and Local Government to tackle homelessness within district. £10,000 of this grant is to be held for the Bond Guarantee Scheme.

Value for Money has been a key consideration in the development of this Scheme and it is envisaged that by implementing a Bond Scheme within Chester le Street it will reduce the number of homeless applications submitted.

4.2 Legal

There are no direct legal implications arising from this report. However, the revised Code of Guidance on Homelessness 2007 suggests that local authorities should focus more on the prevention of homelessness.

4.3 Personnel

There are no personnel implications arising from this report.

4.4 Diversity

The Introduction of the Bond Scheme will broaden the housing options for all applicants including those minority groups and those with support needs.

This Policy is critically important to the council in terms of equality and diversity. This Policy aims at preventing homelessness amongst all diverse groups or households, ensuring the service we provide meets the needs of the wider community.

4.5 Risk

The risks associated if this policy was not implemented are as follows:

- Reduce the amount of people rehoused into the private rented sector
- Increase the costs associated with B&B and temporary accommodation
- Increase the number of homeless applications being submitted

4.6 Data Quality

Every care has been taken in the development of this report to ensure that the information and data used in its preparation and the appendices attached are accurate, timely, consistent and comprehensive. The council's Data Quality Policy has been complied with in producing this report.

5. Background, Position Statement and Option Appraisal

- 5.1 The extension of the duties under the Homelessness Act 2002, increased the number of Homelessness Presentations to Local Authorities and as a result Local Authorities are expected to concentrate more on preventative measures and housing options.

Securing accommodation within the private sector is often difficult as the costs associated with the Bond, admin fees and rent in advance can often leave people feeling that they cannot afford to choose this option of accommodation. This policy will link to the Private Landlord Accreditation Scheme and applicants who are accepted onto the Scheme will have the opportunity to apply to have a Bond Guaranteed.

This Scheme will also secure the rights of these applicants by ensuring that they do not lose their Bond Money. In most situations landlords receive the deposit at the start of the tenancy and sometimes release it when the tenant moves out, but research carried out by Shelter showed that 127,000 private tenants have their deposits unfairly withheld each year. Therefore we hope by introducing this scheme we are protecting the rights of tenants and also helping them to save towards their own bond.

5.2 Benefits of a Bond Scheme Policy:

- Reduction in the number of Homeless Applications
- Increasing the Housing Options to applicants
- Providing assistance to customers to enable them to secure good quality private rented accommodation
- Protecting tenants against the illegal withholding of Bond monies
- Reduction in the number of households in bed and Breakfast
- Reduction in Bed and Breakfast costs
- Spending to Save and providing real and cost effective benefits

6. Recommendations

- 6.1 The Members are recommended to approve the Bond Scheme Policy

7. Background Papers/ Documents referred to

- 7.1 Bond Scheme Policy

AUTHOR NAME	Laura Fisher
DESIGNATION	Housing Options Manager
DATE OF REPORT	22 October 2007
VERSION NUMBER	1

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Revised Chester le Street District Council Bond Guarantee Scheme

Introduction

The extension of duties under the Homelessness Act 2002, increased the number of Homelessness Presentations to Local Authorities and as a result Councils are now expected to concentrate more, on preventative measures and housing options. The Government's strategy for tackling homelessness is outlined in *Sustainable Communities: Homes for all*. The strategy aims to expand housing opportunities and advises, that wherever possible, authorities must consider all prevention options available to the applicant and ensure early intervention to prevent homelessness.

In addition to the above the Government acknowledge that private renting is a vital part of the housing market and has proven to be an increasing tenure of choice, with almost 2.5 million homes in England now living in privately rented. Private renting has many advantages and Chester le Street District Council want to expand the options available to the people in Chester le Street by offering a Rent Deposit Scheme that will ensure that applicants are provided with access to good quality affordable and secure housing.

What is a Rent Deposit Scheme?

There are several different options on how a rent deposit scheme can operate and all schemes have the same goal:-

'To help homeless or people threatened with homelessness obtain good quality housing within the private rented sector'.

This is achieved by making a payment or guaranteeing a payment to a landlord on behalf of a client, when they themselves are unable to afford to do so. There are three different ways

- Deposit Scheme - The scheme pays the cash deposit direct to the landlord and the landlord pays the deposit back to the Scheme at the end of the tenancy.
- Bond Guarantee Scheme - Non cash deposit for the client. A legally binding document is signed by the scheme landlord and client to guarantee that the landlord can claim monies for any damages or rent outstanding.
- Rent in advance - The scheme will pay the landlord for an agreed period while the client is awaiting housing benefit.

Chester le Street District Council's preferred option would be a Bond Guarantee Scheme as this type of agreement limits the cost to the Authority as no actual monies are paid.

Why does Chester le Street need a Bond Guarantee Scheme?

In the Chester le Street District there are high waiting lists in the social housing sector and some customers find themselves forced into poor accommodation, end up homeless or fall into debt. The average cost of a bond in the district (from information gathered through Estate Agents) is approximately £500 and Chester le Street District Council needs to be pro active in promoting a healthy private rented sector in addition to its Council and Registered Social Landlord stock.

Chester le Street District Council believes that everyone should be able to live in a good quality, affordable and secure home however it has been acknowledged that some people are currently unable to access this type of accommodation.

'Value for Money' has been a key consideration in the development of this proposal and it is envisaged that the Bond Scheme within the district the increase the number of prevention cases and reduce the numbers who submit homeless applications.

The scheme will only match applicants to Landlords and their properties who have been accredited by the authority.

The Benefits:

- Offering people a choice of where they want to live.
- Give people a choice of landlord.
- Prevent Homelessness in Chester le Street.
- Spending to Save and providing real and costs effective benefits.
- Enable people to access a good standard of private rented accommodation.

What will the Scheme cover?

The Bond will cover:

- Damage
- Theft
- Loss
- Rent if the tenant defaults
- The scheme will not cover administration fees or rent in advance

An inventory of the property will need to be carried out and the landlord, tenant and scheme operative will sign this. The property will have already been accredited and inspected by the Private Landlord Association.

The National Rent Deposit Forum advised that a Bond should be no more than 4 weeks rent. After taking a selection of ten bonds in the Local area the average Bond should amount to a maximum of £500. In the first year the number of bonds that can be guaranteed will be limited however an assessment of the claim rate will be carried out after the first year of operation, this will determine the number of bonds that can be guaranteed in the future.

To limit the cost to the authority, applicants who are accepted for a bond will be expected to enter into an affordable repayment scheme. If at the end of the term the landlord makes no claim then all monies saved in the scheme will be returned to the tenant.

The Bond will be guaranteed for the term of the tenancy, which is usually 6 months however if the tenant is granted another tenancy, by the landlord, then the bond will cover this tenancy also for a maximum of two years (as recommended by the National Rent Deposit Forum).

At the end of the agreed Bond Guarantee term if the landlord has made no claims against the Bond then the tenant will receive any monies saved into the scheme. Claims made by the landlord must be made within 14 days of the end of the tenancy.

Who can apply for a Bond guarantee?

The Scheme does not discriminate and any person who is 'homeless or threatened with homelessness' can apply to the scheme. However applicants must fit into the following criteria:

- Applicants must be unable to secure accommodation from their own resources.
- Applicants must be homeless or threatened with homelessness.
- Applicants must have a 'Local Connection'* to the Chester le Street District.

* Local Connection to the Chester le Street District as described in the Homeless Act 2002.

Reclaiming Costs

All applicants will be expected to enter into an affordable Savings Scheme for the Bond Scheme. This will reduce the amount the scheme has to pay out should the landlord make a claim against the scheme. However if no claims are made all monies saved will be returned to the tenant to guarantee their bond on the next tenancy.

Applicants who do not maintain payments to the affordable savings scheme will have their bond withdrawn.

Tenancy sustainment and aftercare

Advice and assistance is a major factor for the sustainment of tenancies and by providing support and advice is likely to reduce the amount of claims against the scheme. The Private landlord Accreditation Officer will provide advice and Support to applicants from the date when the applicant accepts an offer until it is decided the applicant is able to manage the tenancy or they have been referred to a floating support agency.

Advice and assistance is as follows:

- Giving advice on the tenancy agreement.
- Rights and Responsibilities of both tenant and landlord.
- Setting up utilities.
- Advice on claiming welfare benefits.
- Signposting.
- Welfare Advice.

Appeals

Applicants have the right to appeal if they are refused on to the scheme. Appeals must be made to the Housing Options Manager within 21 days of the applicant receiving their decision letter.

Evaluation and Review

The policy will be evaluated both in terms of impact when contributing to its policy goal and in the way it has been implemented. The policy will be reassessed on an annual basis.

Equalities and Diversity

The introduction of the Homelessness Prevention Fund will broaden the range of housing options for all applicants including those applicants from minority groups and people with support needs.



Chester-le-Street District Council

Report to:	The Council Meeting
Date of Meeting:	20 December 2007
Report from:	Housing Options Manager
Title of Report:	Prevention Fund
Agenda Item Number:	

1. Purpose and Summary

- 1.1 The purpose of this report is for the Council to consider the introduction of a prevention fund to assist those who are homeless or at risk of homelessness.
- 1.2 The extension of the duties under the Homelessness Act 2002, increased the number of Homelessness Presentations to Local Authorities and as a result Local Authorities are expected to concentrate more on preventative measures and housing options.

2. Consultation

- 2.1 Advice on implementing a Prevention Fund was provided by Communities and Local Government
- 2.2 Consultation has taken place with the Chester le Street Homelessness Forum, The Head of Regeneration and the Housing Strategy Manager.
- 2.3 Staff within the Housing Options Team have also been invited to comment.

3. Corporate plan and Priorities

- 3.1 The implementation of the prevention fund would make a contribution in particular to:
 - Priority1, Customer excellence, Increasing our prevention measures and providing an excellent Housing Options Service accessible by all the community.
 - Priority 2, Working in Partnership to deliver the Community Strategy, engaging people in the development of services in Chester-le-street

for People threatened with Homelessness and to develop services for victims of Domestic abuse

- Priority 4, Regenerating the District, working with partners and customers to regenerate services amongst the diverse community who may be threatened with Homelessness.

4. Implications

4.1 Financial Implications and Value for Money Statement

Funding for the Prevention Scheme has been obtained from the Homelessness Priority Needs Grant. £5000 will be available for the Homeless Support and Prevention Officers to use at their discretion when attempting to prevent homelessness within Chester le Street. Service users will enter into an agreement to repay the funds therefore minimal losses are expected.

Value for Money has been a key consideration in the development of this Scheme and it is envisaged that by implementing a Prevention Fund within Chester le Street the number of prevention cases will increase and reduce the number risk of submitting homeless applications.

4.2 Legal

There are no direct legal implications arising from this report. However, the revised Code of Guidance on Homelessness 2007 suggests that local authorities should focus more on the prevention of homelessness.

4.3 Personnel

There are no personnel implications arising from this report.

4.4 Diversity

The Introduction of the Homelessness Prevention Fund will broaden the housing options for all applicants including those minority groups and those with support needs.

This Policy is critically important to the council in terms of equality and diversity. This Policy aims at preventing homelessness amongst all diverse groups or households, ensuring the service we provide meets the needs of the wider community.

4.5 Risk

The risks associated if this policy was not implemented are as follows:

- Increase the costs associated with B&B and temporary accommodation

- Increase the number of homeless applications being submitted

4.6 Data Quality

Every care has been taken in the development of this report to ensure that the information and data used in its preparation and the appendices attached are accurate, timely, consistent and comprehensive. The council's Data Quality Policy has been complied with in producing this report.

5. **Background, Position Statement and Option Appraisal**

- 5.1 The extension of the duties under the Homelessness Act 2002, increased the number of Homelessness Presentations to Local Authorities and as a result Local Authorities are expected to concentrate more on preventative measures and housing options.

During 2006/2007 95 cases were prevented through effective casework intervention, however, there were a total number of 737 presentations, 322 homelessness applications were still submitted. By introducing a homelessness prevention fund would enable the authority to increase housing options for applicants and have more options for preventing homelessness. The prevention fund will also assist with the reduction in the use of temporary accommodation, the authority placed 33 households in Bed and Breakfast during 2006/2007 and it is envisaged that this costs associated will also reduce as a result of the introduction of a prevention fund.

5.2 Benefits of a Homelessness Prevention Fund:

- Reduction in the number of Homeless Applications
- Increasing the prevention options to applicants
- Reduction in the number of households in bed and Breakfast
- Reduction in Bed and Breakfast costs
- Spending to Save and providing real and cost effective benefits

6. **Recommendations**

- 6.1 Members are recommended to approve the Prevention Fund Policy

7. **Background Papers/ Documents referred to**

- 7.1 Prevention Fund Policy

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DATE OF REPORT	22 October 2007
VERSION NUMBER	1

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Chester le Street District Council Prevention Fund

Introduction

The extension of duties under the Homelessness Act 2002, increased the number of Homelessness Presentations to Local Authorities and as a result Local Authorities are now expected to concentrate more on preventative measures and housing options. The Governments strategy for tackling homelessness is outlined in *Sustainable Communities: Homes for all*. The strategy aims to expand housing opportunities and advising, that wherever possible, authorities must consider all prevention options available to the applicant and ensure early intervention to prevent homelessness.

Why does Chester le Street need a Homelessness Prevention Fund?

Chester le Street District Council currently operate a housing options service and currently have one Prevention Officer Post. The work of the Prevention Officer involves early intervention and assessing all initial presentations in an attempt to prevent homelessness from occurring. During 2006/2007 95 cases were prevented though effective casework intervention however a total number of 737 people presented to the Housing Options Team and 322 homelessness applications were still submitted. By introducing a homelessness prevention fund it would enable the authority to increase the options for preventing homelessness.

In other areas Homeless Prevention Funds have also been proven as a successful tool for reducing homelessness and reducing the need to place people in temporary accommodation. By operating a prevention fund and widening the prevention measures available, it is envisaged that the costs associated with Temporary Accommodation will reduce.

'Value for Money' has been a key consideration in the development of this Scheme and it is envisaged that by implementing a Prevention Fund within Chester le Street the number of prevention cases will increase and reduce the numbers submitting homeless applications.

The Benefits:

- Reduction in the number of Homeless Applications
- Increasing the prevention options to applicants
- Reduction in the number of households in bed and Breakfast
- Reduction in Bed and Breakfast costs
- Spending to Save and providing real and costs effective benefits

Criteria for Use

The following criteria should be followed when making a decision:

- Applicants must be homeless or threatened with homelessness. An assessment of the individual's needs must be assessed through the Housing Options Team Initial Assessment procedure and evidence must be supplied before making a decision.
- A maximum of one payment to any one household, to a maximum of £300
- Applications will be considered on a 'first come, first served' basis
- Invoices will be raised for the total amount and applicants must enter into a repayment agreement
- The prevention fund must be likely to prevent the homelessness for at least six months.

Prevention Options that may be considered

The Prevention fund would only be administered if all other preventative measures had been considered and payments would be authorised by front line staff to enable them to work pro-actively in reducing the number of homelessness presentations and acceptances. The Officers should consider any or a combination of the following options for the use of Prevention fund:

- Rent Arrears and Court Payments*
- Former Tenant rent arrears payments *
- Mortgage or Rent Arrears**
- Goodwill payments (Max £150 for households with Children where prevention of homelessness can occur)
- Rent top ups and tenancy sustainability payments
- Assistance with delays in Housing Benefit
- Purchase of equipment for Low Level support for cases of Domestic Violence such as window locks, alarms, etc
- Agency fee Payments
- Financial Incentives to delay the eviction of Private Tenants***
- Court Application Costs
- Damage Payments
- Travel Costs
- Any other circumstances will be considered where prevention of homelessness can occur

* Payment must enable the applicant to remain in their home for a period of at least 6 months, must be pending an offer of accommodation or payment of arrears must result in an offer of accommodation being made. Arrears should not be paid if it does not result in the Homelessness situation being prevented.

** Mortgage and Rent arrears should only be paid if it results in no application being made to court

*** Payments to RSL and Private landlords only to be made where there is an undertaking not to evict the tenant and allow the tenant to return to the property and remain there for at least 6 months. Any landlord who behaves unreasonably by not allowing the tenant to return will not receive any further payments.

Many local authorities have already established homelessness Prevention Funds. Many others are in the process of establishing this fund. Sometimes labelled "Spend to Save", prevention funds are being used successfully by

Local Authorities across England to reduce the number of homeless applications and acceptances in their district. These funds enable Councils to spend relatively small amounts of money to prevent homelessness thereby saving large amounts of money that would otherwise be wasted on Bed and Breakfast accommodation.

The Homelessness Prevention fund is held within the Housing Options Budget and the Homelessness Prevention Officers will have control over the allocation of payments. To limit the cost to the authority, applicants who are accepted for a bond will be expected to repay the monies received. A invoice will be raised and the applicants will enter into an affordable repayment scheme.

Equalities and Diversity

The Introduction of the Homelessness Prevention Fund will broaden the housing options for all applicants including those minority groups and those with support needs.

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