

# Selby District Council



## Agenda

Meeting: **Executive**  
Date: **Thursday 5 January 2017**  
Time: **4.00pm**  
Venue: **Committee Room**  
To: **Councillors M Crane (Chair), J Mackman (Vice Chair),  
C Lunn, C Metcalfe and R Musgrave.**

### 1. **Apologies for absence**

### 2. **Minutes**

The Executive is asked to approve the minutes of the meeting held on 1 December 2016 (pages 1 to 8 attached).

### 3. **Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

#### **4. Gas Servicing and Maintenance Contract Procurement**

Report E/16/33 outlines the process for the award of the Council's Gas Services and Maintenance Contract (pages 9 to 12 attached).

#### **5. The Discharge of the Statutory Homeless Duties Policy**

Report E/16/34 introduces a Discharge of Statutory Homeless Duties Policy which will allow the Council to comply with its legal duties more effectively and with increased flexibility (pages 13 to 46 attached).

#### **6. Charitable Collections Policy**

Report E/16/35 proposes the draft Charitable Collections Policy for consideration (pages 47 to 86 attached).

#### **7. Gambling Policy Refresh**

Report E/16/36 outlines a review of the Gambling Policy (pages 87 to 124 attached).

#### **8. Housing Rents 2017/18**

Report E/16/37 presents proposals for Housing Revenue Account rent levels in accordance with Central Government's current policy on rent setting (pages 125 to 127 attached).

**Janet Waggott**  
**Chief Executive**

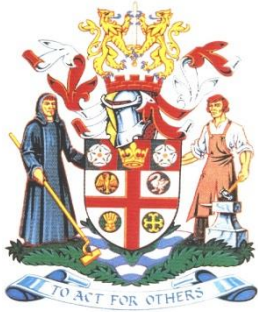
<b>Dates of next meetings</b>
<b>Thursday 19 January 2017– Executive Briefing, 2pm</b>
<b>Wednesday 1 February 2017 – Executive, 6pm</b>

For enquiries relating to this agenda please contact Palbinder Mann, Democratic Services Manager on 01757 292207 or [pmann@selby.gov.uk](mailto:pmann@selby.gov.uk).

#### **Recording at Council Meetings**

Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Manager using the details above prior to the start of the meeting. Any recording must be conducted openly and not in secret.

# Selby District Council



## Minutes

### Executive

Venue:	Committee Room, Civic Centre, Selby
Date:	Thursday 1 December 2016
Time:	4pm
Present:	Councillors M Crane (Chair), J Mackman, C Lunn, C Metcalfe and R Musgrave.
Officers present:	Janet Waggott - Chief Executive, Karen Iveson - Chief Finance Officer (s151), Dave Caulfield – Director of Economic Regeneration and Place, Julie Slatter – Director of Corporate Services and Commissioning Gillian Marshall – Solicitor to the Council, Stuart Robinson – Head of Business Development and Improvement (for minute item 47), Mike James - Lead Officer, Communications and Palbinder Mann - Democratic Services Manager.
Public:	0
Press:	1

NOTE: Only minute number 48 to 50 are subject to call-in arrangements. The deadline for call-in is 5pm on Tuesday 13 December 2016. Decisions not called in may be implemented from Wednesday 14 December 2016.

The Chair announced that there would be an additional item considered which was not listed on the agenda relating to the approval of a funding package to enable Selby and District Housing Trust to purchase properties in Selby for us as affordable housing. The Chair explained that the report had been made available and published on the Council's website however the appendix to the report was considered private and confidential and therefore if any discussion took place on the appendix, the Executive would move into private session.

**44. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**45. MINUTES**

The Executive considered the minutes from the meeting held on 3 November 2016.

**RESOLVED:**

**To approve the minutes of the meeting held on 3 November 2016 for signature by the Chair.**

**46. DISCLOSURES OF INTEREST**

Councillor Mackman declared a none pecuniary 'other' interest in the additional item added to the agenda relating to the approval of a funding package to enable Selby and District Housing Trust to purchase properties in Selby for us as affordable housing as Chairman of the Selby and District Housing Trust. Councillor Mackman added that he had been advised by the Monitoring Officer that he could remain in the room and vote on the item however although he would be involved in the discussion, he would not take part in the vote.

**47. CORPORATE PERFORMANCE REPORT – QUARTER 2 - 2016/17 (JULY TO SEPTEMBER)**

Councillor Crane, Leader of the Council presented a report which provided a progress update on the delivery of the Council's Corporate Plan 2015-20 as measured by a combination of: progress against priority projects/high level actions; and performance against KPIs.

Discussion took place on the following areas of the report:

- It was stated that there had been a recent press article raising concerns about the high levels of child obesity in the district. It was explained that despite the figures Selby was still below the national average and it was hoped that the

investment in the new leisure centre and Summit Indoor Adventure would help reduce the figures. It was added that work was needed to target parents to assist in improving the figures.

- With regard to the performance indicator relating to the percentage of the working age population in employment, Selby College had the highest figures in the country for retraining and assisting individuals back into employment.
- In response to a query relating to Olympia Park, the Director for Economic Regeneration and Place explained that discussions were taking place with both Local Enterprise Partnerships with regard to the site and it was hoped to unlock investment for the site going forward.
- In response to a query regarding empty homes and in particular the empty homes strategy, the Director of Corporate Services and Commissioning explained that there would be a resource in the new organisational structure for empty homes and it was agreed further details of the plans to refresh the current strategy would be emailed to the Executive.
- A query was raised around the figure for the performance indicator relating to council tax debt recovery. It was explained that the Council's target was to achieve 98.8% of collections and that the Council incurred further costs in pursuing debts above this figure. It was also noted that resources had been put into this service to ensure collection levels met target.
- The Leader also informed the Executive that the Marketing and Communications team had been announced as the winner of a national award for which they had been shortlisted as referenced in the report. The Executive congratulated the team.

**RESOLVED:**

**To approve the report.**

**REASON FOR THE DECISION**

*The reporting of performance data enables the Council to demonstrate progress on delivering the Corporate Plan Priorities to make Selby District a great place.*

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**48. DRAFT REVENUE BUDGET AND CAPITAL PROGRAMME  
2016/17 AND MEDIUM TERM FINANCIAL PLAN**

Councillor Lunn, Lead Executive Member for Finance and Resources presented the report on the draft revenue budget, capital programmes and Programme for Growth for 2017/18 to 2019/20.

It was highlighted that the title in the report should state 2017/18 rather than 2016/17.

The Lead Executive Member for Finance and Resources explained that a £4.1m shortfall was forecast in the General Fund over the next three years as reductions in central government funding continued.

The Lead Executive Member for Finance and Resources explained that in accordance with the approved Medium Term Financial Strategy (MTFS), the budget sought to strike a careful balance between savings and investment - applying 'one-off' cash windfalls to support the budget over the next three years whilst savings were delivered and there was investment in housing and business growth to generate more sustainable income.

The Executive were informed that the the draft budget included a refreshed savings plan, set out areas of growth and proposals for the Programme for Growth.

It was noted that the draft budget included a £5 per annum rise in Band D Council tax which equated to around 10p a week, and was in line with Government assumptions.

Discussion took place around the savings proposals. The Chief Finance Officer explained that a robust approach had been taken when compiling the savings plan to ensure it was realistic and a level of non-achievement had been provided for which meant that additional savings would need to be identified. The Executive were informed that as part of the budget consultation, two Councillor workshops had been arranged to help identify further options for savings.

The Executive also discussed the importance of investment in economic growth as part of their plans as growth in the council tax base and business rates would in turn help to close the funding gap.

**RESOLVED:**

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- i) **To approve the draft budgets, bids and savings for public consultation and submitted to Policy Review for comments.**
- ii) **To invite options for additional savings as part of the consultation.**

#### **REASON FOR THE DECISION**

*To enable the views of the public and Policy Review Committee members to gathered through consultation.*

#### **49. REVISION TO TAXI LICENSING POLICY**

Councillor Richard Musgrave, Lead Executive Member for Housing, Leisure, Health and Culture presented the report on the options for the Council's Taxi Licensing Policy following the end of the Driver and Vehicle Standards Agency (DVSA) test, currently a requirement of this Policy.

In response to a query on whether this applied to Hackney Carriage or Private Hire vehicles, the Solicitor to the Council explained that currently there were no wheelchair accessible private hire vehicles licensed by the Council and therefore the requirement for a wheelchair test for drivers would not apply to them.

#### **RESOLVED:**

- i) **To authorise the Solicitor to the Council to amend the taxi licensing policy to remove references to the DVSA test and replace it with a requirement to pass a specialist taxi drivers test administered by a provider on the approved list.**
- ii) **To add the following companies to the initial approved list : Blue Lamp Trust, Green Penny, Elite Driver Training (Diamond), AA DriveTech, ROSPA, Institute of Advanced Motorists, Driving Instructors Association.**

#### **REASON FOR THE DECISION**

*To ensure potential applicants can meet the requirements attached to an application for a taxi licence.*

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**50. APPROVAL OF A FUNDING PACKAGE TO ENABLE SELBY AND DISTRICT HOUSING TRUST (SDHT) TO PURCHASE PROPERTIES IN SELBY FOR USE AS AFFORDABLE HOUSING**

It was noted that this report has been added to the agenda after publication as it was considered urgent. The report outlined that the offer to purchase the properties was time limited and it was also noted that initial discussions with SDHT representatives suggested that the acquisition would potentially be of interest but it was not possible to consult with the SDHT Board and complete the financial modelling to reach a view of the feasibility of the proposals prior to the publication deadline.

The Chair reminded the Executive that any discussion on the appendix to the report would have to take place under private session as it was exempt information relating to the financial or business affairs of any person under paragraph 10.3 of the Access to Information Procedure Rules.

Councillor Lunn, Lead Executive Member for Finance and Resources presented the report on whether Selby District Council should work with Selby District Housing Trust (SDHT) to facilitate the purchase of four properties at Bridge Wharf, Ousegate, Selby and provide funding by way of a loan and potentially a grant.

The Lead Executive Member for Finance and Resources explained that an opportunity had arisen to purchase four properties located in Bridge Wharf, Ousegate. It was noted that there was seven properties located in the area. In response to a query on whether the other three properties had been sold or were for sale, the Director for Economic Regeneration and Place explained that they had been sold subject to contract. The Executive discussed the possibility of acquiring the additional properties should those sales not proceed.

The Executive agreed to move into private session to discuss the appendix to the report as the public interest lay in keeping the information contained in the appendix confidential to ensure that the negotiating position of the parties was maximised.

**RESOLVED:**

**That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted the meeting be not open to the press and public during discussion of the following items as there will be disclosure of exempt information as described in**

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**paragraph 10.3 of schedule 12A to the Local Government Act 1972 as amended.**

Discussion took place on the financial modelling contained in the appendix.

It was agreed to amend the resolutions as follows:

- Remove the number four from resolution one to allow the additional properties to be purchased subject to the same conditions should they become available.
- Include the words 'subject to meeting the Council's viability threshold in resolution three.
- To replace Selby and District Housing Trust with Selby and District Housing Trust Board in resolution two

**RESOLVED:**

- i) That subject to Selby and District Housing Trust wishing to acquire the properties and appropriate due diligence, officers are authorised to work with SDHT to negotiate and facilitate the purchase of properties (and adjoining land) at Bridge Wharf Ousegate Selby;**
- ii) To offer a funding package (loan and grant), subject to contract to Selby and District Housing Trust Board to facilitate the purchase of the units and the land for use as affordable housing with the funding package secured on the property.**
- iii) To delegate to the Chief Finance Officer in consultation with the Executive Councillor for Finance and Resources and the Solicitor to the Council final approval of the terms and conditions of the funding package subject to meeting the Council's viability threshold (including a cap on grant funding of £50k per unit).**

**REASON FOR THE DECISION**

*To facilitate the delivery of additional units of affordable housing within Selby town.*

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The meeting closed at 5.15pm

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# Selby District Council

## REPORT

Reference: E/16/33

Public



**To:** The Executive  
**Date:** 5<sup>th</sup> January 2017  
**Status:** Key Decision  
**Report Published:** 23 December 2016  
**Author:** Dave Maycock, Lead Officer Assets  
**Executive Member:** Councillor Richard Musgrave, Lead Executive Member for Housing, Leisure, Health and Culture  
**Lead Officer:** Julie Slatter, Director of Corporate Services and Commissioning

**Title:** Gas Servicing and Maintenance Contract Procurement

### Summary:

Selby District Council's current Gas Service Contract expires on 31<sup>st</sup> March 2017 therefore:

A framework procurement exercise has been undertaken, to award a new contract for the full servicing and installation of Gas Appliances and maintenance works to all Selby District Housing Stock, to replace the existing contract upon expiry in March 2017.

Selby District Council is a member of Efficiency North (EN), and has used their framework for this procurement. We conducted a mini competition and have selected Lot 5 of the Re:allies Gas Servicing and Maintenance Framework..

The service is to be procured as a NEC3 Term Service Contract with an initial duration of 24 months commencing on 1<sup>st</sup> April 2017 with the option of +1 year + 1 year to make a duration of up to 4 years in total, subject to compliance.

This report explains the process of the price only mini competition and recommends a contract award.

## **Recommendation:**

**To award a contract to the most financially viable Gas Tender Bidder (A) to provide the full Safety Checks, annual Service's for CP12 safety compliance, for emergency call outs to broken down heating and hot water services, and replacement systems to tenants.**

## **Reasons for recommendation**

To ensure the Council has a replacement Contractor to ensure compliance with requirements for Gas Safety Inspections/Checks of all Heating and Hot Water systems, upon expiry of the existing Contract.

### **1.0 Introduction and background**

1.1 The Council currently has a framework contract for the Annual Servicing of approximately 2,800 properties per year. This Contract also has in place emergency callout for boiler breakdowns, burst heating pipework and general maintenance of all radiators cookers and gas fire safety checks.

The current EN-Procure framework commenced in April 2013 and was for a period of two years with an option to extend for a period of up to 2 years. The framework is now due to expire in March 31<sup>st</sup> 2017.

1.2 A procurement Mini-Tender through the EN-Procure Framework has been undertaken to secure a new framework contract, this process is compliant with both the Council's Contract Procedure Rules and EU procurement rules. As the overall value is over the EU contract value threshold, the award of the contract requires Executive approval.

1.3 The initial tenders were opened on Friday 4<sup>th</sup> November at 12.00 followed by a clarification round; the clarification responses were opened on Tuesday 29<sup>th</sup> November at 12.00. Both the initial tender and the clarification responses were opened by Liz Quinn, Framework Manager of Efficiency North. A full record of receipt and downloading of tenders is held on the Tender Management System (TMS) which is a web based e tender system used by Efficiency North to administer mini competitions via its frameworks.

## **2. The Procurement Process**

2.1 The Invitation to Tender documentation was drafted by Efficiency North and approved by Legal services on the 23<sup>rd</sup> September 2016, documents were issued to:

- Aaron Services Limited
- British Gas Social Housing Ltd t/a PH Jones
- Denton & Nickels Limited
- J Tomlinson Limited
- Keepmoat Property Services Limited
- Mears Limited
- Morgan Sindall Property Services
- Palm Yorkshire Limited
- Sure Maintenance Limited
- The Gas Company
- Vinshire Plumbing and Heating Limited

Tenders were received from:

- J Tomlinson Limited
- Keepmoat Property Services Limited
- Mears Limited
- Morgan Sindall Property Services
- Sure Maintenance Limited
- The Gas Company
- Vinshire Plumbing and Heating Limited

2.2 A detailed analysis of the tendered schedule of rates was carried out in accordance with the method for evaluating the tender, following which a clarification tender was undertaken via TMS to ensure all companies had submitted rates on the same basis. All the companies who submitted rates in the initial tender return submitted revised rates in response to the clarification tender and a further detailed analysis was carried out.

2.3 Tender prices were evaluated in accordance with the methodology set out in the Invitation to Tender which resulted in the following prices for the listed works:

Bidder A:- £733,339.76  
Bidder B:- £800,779.81  
Bidder C:- £820,756.70  
Bidder D:- £821,372.86  
Bidder E:- £945,391.36  
Bidder F:- £1,048,111.49  
Bidder G:- £1,118,533.19

2.4 This was a price based tender therefore the successful tender was submitted by bidder A.

### 3 Legal/Financial Controls and other Policy matters

#### 3.1 Legal Issues

The total potential value of the services over the life of the contract is in excess of £2,933,332.00 we have conducted an EU compliant procurement.

#### 3.2 Financial Issues

Current Contract	Annual Charges 2014-15 Based on actual costs.	Proposed Contract per annum based estimated levels of repairs and callouts.	Potential average saving per annum based on existing rates and volumes
HelpLink	£956,886.00	£733,333,00	£105,000.00

During 2014/15 the gas contract costs were £956,886.00. It is anticipated that the cost of gas servicing, maintenance and installation for this contract period will be lower based on numbers of replaced new stock boilers which need less repairs, and reduced callouts.

#### 4. Conclusion

The award of the Gas Contracts will ensure the Council can maintain the legally required Gas safety service to residents across the district and we anticipate it will also achieve substantial savings..

#### Contact Details

Dave Maycock  
Lead Officer Assets  
[dmaycock@selby.gov.uk](mailto:dmaycock@selby.gov.uk)  
01757 292074

# Selby District Council

## REPORT

Reference: E/16/34

Public



**To:** The Executive  
**Date:** 5<sup>th</sup> January 2017  
**Status:** Non Key Decision  
**Report Published:** 23 December 2017  
**Author:** Sarah Thompson, Lead Officer - Housing  
**Executive Member:** Councillor Richard Musgrave, Lead Executive Member for Housing, Leisure, Health and Culture  
**Lead Officer:** Julie Slatter, Director of Corporate Services and Commissioning

**Title:** The Discharge of the Statutory Homeless Duties Policy

### Summary:

Selby District Council owes applicants, who are homeless, eligible for assistance, in priority need and not intentionally homeless, the main housing duty to secure accommodation. This report introduces a Discharge of Statutory Homeless Duties Policy which will allow the Council to comply with its legal duties more effectively and with increased flexibility.

### Recommendations:

- i. That the Discharging Statutory Homeless Duties policy is adopted

### Reasons for recommendation

To allow for the discharge of statutory homeless duties more effectively across the social and private rented sectors.

### 1. Introduction and background

- 1.1 Local Housing Authorities have a duty to house 'statutory homeless' people. This means that they are eligible for public funds, have a connection to the local area, are unintentionally homeless and in priority need. Once these tests have been satisfied Selby District Council has a duty to house them. This is known as the main homelessness duty.

- 1.2 Where a main duty has been accepted, the authority must ensure that suitable accommodation is available for the applicant and his or her household. The duty starts following the acceptance and continues until a housing solution becomes available for them. This means that households who are homeless must be accommodated in temporary accommodation whilst waiting for suitable settled accommodation.
- 1.3 Currently Selby District Council only move on statutory homeless households from temporary accommodation into social housing, often within our own housing stock, through North Yorkshire Home Choice where they are given reasonable preference.
- 1.4 Accommodation can be offered in the private rented sector to meet this duty, but homeless households are under no obligation to accept the offer. If this offer is declined then an offer of social housing must be made in order for the Council to have legally discharged its duty. The Localism Act 2011 gives the district council the power to discharge its main housing duty into the private rented sector, providing that the offer is “suitable” and the applicant is offered an assured shorthold tenancy with a minimum fixed term of one year, without the applicants consent.

## **2. The Report**

- 2.1 The introduction of the Discharge of Statutory Homeless Duties policy will provide consistent, timely and appropriate housing solutions to homeless households, both in the social and private sector.
- 2.2 The Homelessness Strategy and Action Plan set out targets to make use of direct offers through North Yorkshire Home Choice to households in temporary accommodation and to consider discharging our statutory duties in to the private rented sector.
- 2.3 The policy aims to reduce the reliance on the North Yorkshire Home Choice bidding process and to reduce the use of temporary accommodation by highlighting the need to make direct offers. This is where a property will not be advertised but will be offered directly to an applicant and the North Yorkshire Home Choice policy specifically includes circumstances this would apply and they include to Statutory Households.
- 2.4 To further reduce the reliance on temporary accommodation introduces the option for the council to make a suitable offer of accommodation to a property in the private rented sector. This will widen the accommodation available to the council and allow for an offer of settled accommodation to be made quicker as the number of properties and the location and size of properties will be much wider than the limited number of social homes available through North Yorkshire Home Choice.
- 2.5 The decision on how and where to discharge a duty must take into consideration the suitability of the accommodation for the customer. Each



case will be assessed on an individual basis and accommodation will be offered based on suitability and wherever possible, within the Selby district.

- 2.6 An assessment of the suitability of an offer will be made by applying tests in relation to the size and layout of the property, the affordability and the location. If the property is within the private rented sector a further test is applied in relation to the standard of the property and the management.
- 2.7 Any offer in the private rented sector must have a minimum fixed term of one year and if a household accepts a private rented sector offer under this policy, and becomes unintentionally homeless from the property within two years of the tenancy start, the full homeless duty is revived regardless of the households current priority need status.

### **3. Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

- 3.1 The Localism Act 2011 enables local authorities to discharge their duty towards homeless households in priority need by using privately rented housing irrespective of whether the household is in agreement with this. The Council previously had the power to discharge duty to social rented accommodation. The policy includes suitability criteria to reduce the risk that the Council discharges its homelessness duty to an unsuitable property and consequently, the risk that homeless households may be placed in unsuitable accommodation. The policy mitigates the risk of the Council failing to discharge its statutory responsibilities.

#### **Financial Issues**

- 3.2 There is no specific financial risk linked to the introduction of this policy.

#### **Impact Assessment**

- 3.3 An Equality Impact Assessment has been carried on the Discharging Statutory Homeless Duties Policy and no negative impacts have been identified. The full assessment is available as a background document.

### **4. Conclusion**

- 4.1 Adopting the Discharging Statutory Homeless Duties Policy will allow the council to discharge their statutory duties effectively and will ensure the provision of suitable housing options for all.

Utilising properties in the private rented sector widens the available choice, increases the chance of suitable accommodation being found quicker, and reduces the reliance on, and length of stay in, temporary accommodation.

## **5. Background Documents**

Equalities Impact Assessment

*Contact Officer:*

*Sarah Thompson  
Lead Officer – Housing  
Selby District Council  
sthompson@selby.gov.uk*

### **Appendices:**

Appendix A – Discharge of Homeless Duties Policy and associated appendices

# Equality, Diversity, and Community Impact Assessment



As a public authority we should ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, and community impact. In appropriate instances we will need to carry out an equality, diversity, and community impact assessment.

This form:

- Should be read in conjunction with the Equality Diversity and Community Impact Assessment Toolkit can be used to prompt discussion when carrying out your impact assessment
- should be completed either during the assessment process or following completion of the assessment
- should include a brief explanation where a section is not applicable

<b>Lead person: Dominic Richardson</b>	<b>Contact number: x 42077</b>
<b>Date of the equality, diversity, and community impact assessment: 21/09/2016</b>	

<b>1. Title: Discharging Statutory Homeless Duties Policy</b>
Is this
A Policy

## 2. Members of the assessment team:

<b>Name</b>	<b>Organisation</b>	<b>Role on assessment team e.g. service user, manager of service, specialist</b>
Dominic Richardson	SDC	Manager of service
Sarah Thompson	SDC	Manager of service
Julia Jennison	SDC	Specialist – Policy
Rebecca Ware	SDC	Specialist – Legal
Vanessa Crane	SDC	Manager of service
Vicky Stoker	SDC	Manager of service

<b>3. Summary of strategy, policy, service or function that was assessed:</b>
<p><a href="#">The Localism Act 2011</a> has made significant changes to the way in which local authorities can deal with applications for social housing and homelessness applications under Parts 6 and 7 of the Housing Act 1996. Local Authorities owe applicants, who are homeless, eligible for assistance, in priority need and not intentionally homeless, the main housing duty to secure suitable accommodation (unless a referral to another local authority can be made under the local connection provisions).</p> <p>The Act gives the local authority the power to discharge its main housing duty into the private rented sector providing that the offer is “suitable” and the applicant is</p>

offered an assured shorthold tenancy with a minimum fixed term of one year.

This new power enables local authorities to increase the range of housing options available to them when discharging their duty so they can reduce the length time applicants have to wait in temporary accommodation for an offer of accommodation and reduce the pressure on social rented stock.

By utilising the ability to discharge our main homelessness duty into the private rented sector, alongside the social sector, we will increase the options available to both our customers and the local authority and alleviate some of the conflicts that occur between the North Yorkshire HomeChoice Policy and our statutory responsibilities under homelessness legislation.

The Discharging Statutory Homeless Duties Policy aims to provide a standardised process for the local authority to discharge its main housing duty into both the social and private rented sector.

The policy enables the Housing Options team to secure timely and appropriate housing solutions for statutory homeless households, contributing to the Council's target within the Homelessness Strategy (2015-2020) to "Increase suitable housing options", "Reduce the use and increase the quality of temporary accommodation" and "Identify new and improved opportunities to provide housing and support living for households with specific needs".

The policy will:

Outline the circumstances in which the main housing duty will be discharged into the private rented sector

Define in detail the factors to be considered when determining the suitability of accommodation, in line with legislation, for both private and social sector properties

Detail the review process for applicants who feel the accommodation is unsuitable

Demonstrate how the policy will be applied individually to ensure there is no discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation

#### **4. Scope of the equality, diversity, and community impact assessment**

(complete - 4a. if you are assessing a strategy, policy or plan and 4b. if you are assessing a service, function or event)

##### **4a. Strategy, policy or plan**

(please tick the appropriate box below)

The vision and themes, objectives or outcomes

The vision and themes, objectives or outcomes and the supporting guidance	<input checked="" type="checkbox"/>
A specific section within the strategy, policy or plan	<input type="checkbox"/>
<b>Please provide detail:</b>	

<b>4b. Service, function, event</b> please tick the appropriate box below	
The whole service (including service provision and employment)	<input type="checkbox"/>
A specific part of the service (including service provision or employment or a specific section of the service)	<input type="checkbox"/>
Procuring of a service (by contract or grant)	<input type="checkbox"/>
<b>Please provide detail:</b>	

<p><b>5. Fact finding – what do we already know</b>          Make a note here of all information you will be using to carry out this assessment. This could include: previous consultation, involvement, research, results from perception surveys, equality monitoring and customer/ staff feedback.</p> <p>(priority should be given to equality and diversity related information)</p> <p><b>Age</b> - 10% of those who were accepted as statutorily homeless over the last 3 years were over 60 years old and 21% were under 25.</p> <p><b>Disability</b> - 18% of all cases that were given a homeless duty in the last three years were awarded priority need as a result of having either a mental or physical disability</p> <p><b>Sex (male or female)</b> - 58% of households who were awarded a homeless duty were either a lone female parent household or a single lone female. 20% were lone male households and the remaining 22% were couples with dependent children.</p>
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**Pregnancy and maternity** - 7% of all cases that were given a homeless duty in the last three years were awarded priority need as a result of being pregnant (with no other dependent children).

**Race** - The population of Selby has a smaller estimated proportion of Black, Asian and Minority Ethnic (BAME) groups than the national average of 17.2% with just 6.4% of the population classified as other categories than White British. Within these minority groups, the 'Asian or Asian British' category accounts for 2.2% of the total population of Selby (ONS Mid-2009 Population Estimates Experimental Data 107).

For the last 3 years, 100% of applicants who have been accepted as statutorily homeless have identified their ethnicity as "White". As such, in the Selby district, BME households are less likely to be affected by homelessness, or less likely to present as homeless, than their make up as a percentage of Selby Districts population.

**Are there any gaps in equality and diversity information**

**Please provide detail:**

The service does collect data on and other significant equality characteristics

**Action required:**

None

**6. Wider involvement – have you involved groups of people who are most likely to be affected or interested**

Yes

No

**Please provide detail:**

- The Policy has been developed with reference to the following policies and pieces of legislation :-

Housing Act 1996

Homelessness Act 2002

Homelessness Code of Guidance for Local Authorities 2006

Equality Act 2010

Localism Act 2011

Homeless (Suitability of Accommodation) (England) Orders 2012, 2003, 1996

Selby District Council Homelessness Strategy and Action Plan (2015-2020)

North Yorkshire HomeChoice Allocations Policy

- The policy contributes to the Council's target within the Homelessness Strategy (2015-2020) to "Increase suitable housing options", "Reduce the use and increase the quality of temporary accommodation" and "Identify new and improved opportunities to provide housing and support living for households with specific needs".

- The Homelessness Strategy (2015-2020) had wide ranging consultation with service users and stakeholders, including members of the York, North Yorkshire and East Riding Homeless Group and Selby Homelessness Forum

**Action required:** To distribute the Policy to the Selby Homelessness Forum once approved.

**7. Who may be affected by this activity?**

please tick all relevant and significant equality characteristics, stakeholders and barriers that apply to your strategy, policy, service or function

**Equality characteristics**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Age                  | <input checked="" type="checkbox"/> Carers             | <input checked="" type="checkbox"/> Disability         |
| <input checked="" type="checkbox"/> Gender reassignment  | <input checked="" type="checkbox"/> Race               | <input checked="" type="checkbox"/> Religion or Belief |
| <input checked="" type="checkbox"/> Sex (male or female) | <input checked="" type="checkbox"/> Sexual orientation |  |
| <input checked="" type="checkbox"/> Other                |  |  |

(for example – marriage and civil partnership, pregnancy and maternity, social class, income, unemployment, residential location or family background, education or skills level)

**Please specify:**

The policy is inclusive of all household groups.

**Stakeholders**

- |  |   |                                       |
|--|---|---------------------------------------|
| <input checked="" type="checkbox"/> Services users | <input checked="" type="checkbox"/> Employees | <input type="checkbox"/> Trade Unions |
| <input checked="" type="checkbox"/> Partners       | <input type="checkbox"/> Members              | <input type="checkbox"/> Suppliers    |
| <input type="checkbox"/> Other please specify      |   |                                       |

**Potential barriers.**

- |  |  |
|--|--|
| <input type="checkbox"/> Built environment             | <input type="checkbox"/> Location of premises and services |
| <input type="checkbox"/> Information and communication | <input type="checkbox"/> Customer care                     |

**Timing**

**Stereotypes and assumptions**

**Cost**

**Consultation and involvement**

**specific barriers to the strategy, policy, services or function**

**Please specify**

Accessibility to affordable accommodation within the social or private rented sector could be a potential barrier to the aims of this policy but this would be addressed in wider Tenancy and Housing strategies and policies.

**8. Positive and negative impact**

Think about what you are assessing (scope), the fact finding information, the potential positive and negative impact on equality characteristics, stakeholders and the effect of the barriers

**8a. Positive impact:**

The Discharging Statutory Homeless Duties Policy will benefit:-

The Council

- Maximise housing solutions available to us
- Contribute to the Council's target within the Homelessness Strategy (2015-2020) to "Increase suitable housing options", "Reduce the use and increase the quality of temporary accommodation" and "Identify new and improved opportunities to provide housing and support living for households with specific needs"
- Ensure properties comply with the Homelessness (Suitability of Accommodation) (England) Order 2012
- Support the North Yorkshire Common Allocation Policy
- Reduce the length time applicants spend in temporary accommodation for an offer which, in turn, enables demand on the Housing Options service to be managed more effectively
- Reduce the pressure on social rented stock
- Provide a consistent approach to discharging the main housing duty

Housing Options Customers

- Increase the number and variety of housing options available
- Reduce waiting times for an offer of suitable accommodation
- Reduce the length of time applicants have to wait in temporary accommodation
- Provide a consistent offer to all Housing Options customers who have been awarded a main housing duty
- Ensure properties offered meet the Homelessness (Suitability of Accommodation) (England) Order 2012



- Benefit applicant households with larger families where availability of properties is limited

The policy will ensure a comprehensive and consistent assessment is carried out for each statutory homeless household; meaning all groups can now access clear guidance on the whole homeless placements process.

The assessment will consider accessibility and support needs of the household and their capacity to sustain a private sector tenancy.

Households with high support needs and accessibility requirements are more likely to be offered accommodation in the social sector. It would be reasonable to expect that some young or older people may have high support needs.

Only offers of accommodation that conform to the Suitability of Accommodation Order will be made.

The ability to discharge the main housing duty into the private sector will expand the housing options available to customers; reduce the time they spend in temporary accommodation and reduce the time they have to wait for a housing offer.

The policy is inclusive of all household groups. It may be particularly beneficial to those who are single and under the age of 35 as will allow shared accommodation within the private rented sector to be utilised.

**Action required:**

The policy will be evaluated and monitored through :-

- Regular reviews
- Staff appraisals and 1-2-1's (particularly the Housing Options Development Officer)
- Selby Homelessness Forum
- Selby Homelessness Strategy and Action Plan
- York, North Yorkshire & East Riding Homelessness Group
- Information from other partners

**8b. Negative impact:**

There have been no negative impacts identified. Each household considered under this policy will undergo an individual and comprehensive assessment to ensure offers of accommodation conform to the Suitability of Accommodation Order.

**Action required:**

The policy will be evaluated and monitored through :-

- Regular reviews
- Staff appraisals and 1-2-1's (particularly the Housing Options Development Officer)

- Selby Homelessness Forum
- Selby Homelessness Strategy and Action Plan
- York, North Yorkshire & East Riding Homelessness Group
- Information from other partners

**9. Will this activity promote strong and positive relationships between the groups/communities identified?**

**Yes**

**No**

**Please provide detail:**

The policy will ensure a comprehensive and consistent assessment is carried out for each statutory homeless household; meaning all groups can now access clear guidance on the whole homeless placements process.

**Action required:**

**10. Does this activity bring groups/communities into increased contact with each other? (e.g. in schools, neighbourhood, workplace)**

**Yes**

**No**

**Please provide detail:**

**Action required:**

**11. Could this activity be perceived as benefiting one group at the expense of another? (e.g. where your activity/decision is aimed at adults could it have an impact on children and young people)**

**Yes**

**No**

**Please provide detail:**

**Action required:**

**12. Equality, diversity, and community impact action plan**

(insert all your actions from your assessment here, set timescales, measures and identify a lead person for each action)  
(These actions should feed into your project risk assessment and action log)

<b>Action</b>	<b>Timescale</b>	<b>Measure</b>	<b>Lead person</b>
Policy approval	January 2017	Policy approved by Executive	Sarah Thompson (Lead Officer Housing)
Continue to gather and evaluate equalities to data to inform future service delivery/decisions	Ongoing	N/A	Sarah Thompson (Lead Officer Housing)  Dominic Richardson (Housing Officer)
Policy review	12 months from approval	A full review of the impact of the policy being introduced	Sarah Thompson (Lead Officer Housing)  Dominic Richardson (Housing Officer)

**13. Governance, ownership and approval**

State here who has approved the actions and outcomes from the equality, diversity, and community impact assessment

Name	Job Title	Date
Dominic Richardson	Housing Officer	19/09/2016

**14. Monitoring progress for equality, diversity, and community impact actions**  
(please tick)

- As part of Service Planning/performance monitoring
- As part of Project monitoring
- Update report will be agreed and provided to the appropriate board  
Please specify which board
- Other (please specify) – See Section 8a and 8b

**15. Publishing**

This Equality, Diversity, and community impact assessment will act as evidence that due regard to equality and diversity has been given.

If this impact assessment relates to a **Key Delegated Decision or Executive or full Council** or a **Decision** a copy should be emailed to Democratic Services and will be published along with the relevant report.

A copy of **all other** Equality and Diversity and community impact assessments should be kept on the project file (but need not be published).

**Date impact assessment completed****19/09/2016**



# Discharging Statutory Homeless Duties Policy

## 1 Policy Aims:

- 1.1 To maximise housing solutions available to whom the Council has determined it owes a full homelessness duty.
- 1.2 To secure timely and appropriate housing solutions for statutory homeless households, contributing to the Council's target within the Homelessness Strategy (2015-2020) to "Increase suitable housing options", "Reduce the use and increase the quality of temporary accommodation" and "Identify new and improved opportunities to provide housing and support living for households with specific needs".
- 1.3 To assess each case on an individual basis, to avoid blanket policies and ensure there is no discrimination against protected characteristics.
- 1.4 To ensure properties comply with the [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#).
- 1.5 To, as far as reasonably practical, secure accommodation in the Selby district. There may be exceptional circumstances, where an available and suitable property is located outside Selby district. This will be as close as possible to our local authority border or to where the homeless person/persons have a local connection.
- 1.6 To support the North Yorkshire Common Allocation Policy in relation to Direct Offers.

## 2 Legislation, Guidance & Policy:

### 2.1 Legislation and Guidance

2.1.1 The policy will comply with the following key legislation:

- a) [The Housing Act 1996, and the Homelessness Act 2002 \(as amended by the Localism Act 2011\)](#).

The Housing Act 1996 and Homelessness Act 2002 are the overarching primary legislation relating to Housing and Homelessness. It defines the housing and homelessness statutory duties placed on local authorities.

- b) [The Equality Act 2010](#)



The Equality Act 2010 requires us to have due regard to eliminating unlawful discrimination, harassment and victimisation. An Equality Impact Assessment has been completed to determine if the introduction of this Policy and procedure will result in a less favourable outcome on any group within the community or unlawfully discriminate in any way. Having carried out the analysis we find that this policy and accompanying procedure will not have any adverse effect on any or all protected groups.

**c) [Homelessness Code of Guidance for Local Authorities July 2006:](#)**

This Homelessness Code of Guidance provides supplementary information required to assess the suitability of accommodation based on its size and layout (aka space and arrangement) of accommodation. Principally it requires officers to look at the property in light of the relevant needs, requirements and circumstances of the household. For example, this may include the physical access to and around the home for a household that has a particular medical and/or physical need.

**d) [Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness \(Suitability of Accommodation\) \(England\) Order 2012.](#)**

This Supplementary Guidance sets out how the new power, that allows private rented sector offers to be made to end the main homelessness duty, should work. Although specific to private sector offers, for consistency and equitable decision making, the recommendations have been applied to the assessment of both private and social sector properties.

## **2.2 Sub-regional and local policy**

### **2.2.1 Availability and sources of suitable accommodation are advertised in accordance with:**

**a) [North Yorkshire Common Allocation Policy:](#)**

The [North Yorkshire Common Allocation Policy](#) determines the priority and process for allocating social rented sector stock via the North Yorkshire Home Choice scheme. The local authorities signed up to the North Yorkshire Common Allocation policy (Craven, Hambleton, Richmondshire, Ryedale, Scarborough, Selby and York). Local authority landlords, charities and Registered Providers all advertise available properties for let.

The scheme also has the facility to advertise properties which are owned by responsible private rented sector landlords.



The policy confirms that local authorities discharging their Statutory Homeless Duty can only do so within their own district, unless it has negotiated an alternative arrangement.

**b) Selby District Council Homelessness Strategy and Action Plan (2015-2020)**

A key priority area for our Homelessness Strategy and Action plan is to increase access to settled accommodation in the social sector and make better use of the private rented sector. By being able to discharge our duty into the private rented sector, we will contribute towards achieving our target to ensure that customers are able to move on from temporary accommodation in a timely manner and extend our work with the private rented sector.

### **3 The Policy**

This document sets out the policy for discharging Selby District Council's statutory homeless duty<sup>1</sup> in either the private or social rented sectors.

#### **3.1 Options for discharge of the main homelessness duty**

3.1.1 The Council has the option to discharge the main housing duty in either the private rented or social rented sectors.

3.1.2 Applicants will be assessed as to their suitability for accommodation. Following this assessment, the Council will discharge their duty by a suitable offer in either the social or private rented sector, whichever comes available first, from the date of the homelessness acceptance.

3.1.3 Where applicants are not considered suitable for a private rented sector offer, the Council will seek to discharge its duty by way of a social housing offer, or offer of specialist accommodation such as sheltered, extra care or supported accommodation. At this time, consideration will be given to any Local Lettings Policy and to the provisions of the Common Allocations Policy on unacceptable behaviour and the the SDC Tenancy Policy to determine the length and type of tenure that will be awarded.

3.1.4 An assessment of the suitability of either offer will be made applying the following tests:

---

<sup>1</sup> 'Statutory homeless duty' or 'main homelessness duty' is owed where the authority is satisfied that the applicant is eligible for assistance, unintentionally homeless and falls within a specified priority need group. Local authorities owe applicants who are homeless, eligible for assistance, in priority need and not intentionally homeless the main housing duty to secure suitable accommodation, under Section 193 of The Housing Act 1996 (amended 2002).





		Private Sector Offer	Social Sector Offer
Test 1	Size and Layout of property	✓	✓
Test 2	Affordability of the property	✓	✓
Test 3	Location of the property	✓	✓
Test 4	Property standards and management	✓	Not required as monitored by Homes & Community Agency

3.1.5 **Private Rented Sector Assessments:** The assessment will commence when a property has been identified.

3.1.6 **Social Rented Sector Assessments:** The assessment will be carried out when an applicant is the successful bidder for a property or a Direct Offer is to be made.

3.1.7 An offer will only be made if the property passes the required tests in accordance with the relevant Homelessness (Suitability of Accommodation) (England) Orders.

### 3.2 Offers of accommodation

3.2.1 Statutory homeless households are entitled to one offer of suitable accommodation.

- **Private Rented Sector Offer:** Must be an offer of an Assured Shorthold Tenancy, with a minimum fixed term of one year.
- **Social Rented Sector Offer:** Must be an offer of accommodation from a Registered Provider or a charity.

3.2.2 In line with the North Yorkshire Home Choice Allocations Policy, the Council reserves the right to make one direct offer to a statutorily homeless household at any point after a full duty has been accepted. This offer could either be through the offer of social housing, housing association tenancy or via the offer of private rented accommodation. The homeless duty will be discharged if an offer is made as a result of a successful bid on a suitable property or the decline of a suitable direct offer.



3.2.3 We will consider the affordability of a property as part of the assessment of its suitability to meet the applicant's needs. If when determining an applicant's residual income after meeting the accommodation costs, we would deem the accommodation unaffordable if the applicant would be left with a residual income which would be less than the level of income support or income-based jobseekers allowance applicable to that person's household – whether claimed or not.

3.2.4 In the case of a private rented sector offer, tenancy support will be offered to a household, where Selby District Council assess that it is required, for the purpose of tenancy sustainment. Support will be provided through the Housing Options team for a period of up to 3 months.

### **3.3 Refusal or failure to respond to an offer of suitable accommodation**

3.3.1 The homeless duty will be discharged if a suitable offer (known as a "final" offer) is accepted or refused.

3.3.2 Should applicants disagree with the suitability of the offer made, they have the right to accept the final offer (either private or social rented sector offers) and simultaneously request a review of its suitability.

3.3.3 If a statutory homeless applicant refuses or fails to respond to a suitable offer of accommodation in the private or social sector, the Council can end its statutory duty to provide accommodation.

### **3.4 Reviews on the suitability of accommodation offered**

3.4.1 Where a household refuses an offer of suitable accommodation they have the right to a review of that decision in accordance with Selby District Councils Review Procedure.

3.4.2 A request for a review must be made by the applicant within 21 days of receipt of their decision letter (Section 202(3) Housing Act 1996). A review decision letter will be sent within 56 days of receipt of the review request, unless an extension has been agreed.

3.4.3 During the review process, Selby District Council is not legally obliged to provide a household with temporary accommodation but may choose to do so. The original property offered may be held open whilst the review is being considered, but this would be at Selby District Council's discretion.

3.4.4 If the household feels the review decision is incorrect, they do have a further right of appeal through the County Court and will be notified of this in the



decision letter. The appeal must be on a point of law and an application must be made to the County Court within 21 days of the review decision.

- 3.4.5 During the appeal process, Selby District Council is not legally obliged to provide a household with temporary accommodation but may choose to do so.

## **4 Equality Impact**

- 4.1 An Equality Impact Assessment has been carried on the Discharging Statutory Homeless Duties Policy and no negative impacts have been identified.

## **5 Reviewing the Policy and Eligibility**

- 5.1 This Policy will be reviewed in line with any significant change in legislation, guidance issued by the DCLG or significant case law. Separate to this it will be reviewed after twelve months in this first instance and then every five years.

Policy Approved by: Executive Date: \_\_\_\_\_

Date of next Review: March 2018

### **Appendices**

- Appendix A** The Homelessness (Suitability of Accommodation) Order (England) 2012
- Appendix B** Accommodation Suitability Checklist
- Appendix C** Legal and Policy Background

2012 No. 2601

**HOUSING, ENGLAND**

**The Homelessness (Suitability of Accommodation) (England)  
Order 2012**

<i>Made</i>	- - - -	<i>11th October 2012</i>
<i>Laid before Parliament</i>		<i>17th October 2012</i>
<i>Coming into force</i>	- -	<i>9th November 2012</i>

The Secretary of State in exercise of the powers conferred by sections 210(2)(a), (2)(b) and 215(2) of the Housing Act 1996(a), makes the following Order:

**Citation, commencement and application**

- 1.—(1) This Order may be cited as the Homelessness (Suitability of Accommodation) (England) Order 2012 and comes into force on 9th November 2012.
- (2) This Order applies in relation to England only.

**Matters to be taken into account in determining whether accommodation is suitable for a person**

2. In determining whether accommodation is suitable for a person, the local housing authority must take into account the location of the accommodation, including—
- (a) where the accommodation is situated outside the district of the local housing authority, the distance of the accommodation from the district of the authority;
  - (b) the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household;
  - (c) the proximity and accessibility of the accommodation to medical facilities and other support which—
    - (i) are currently used by or provided to the person or members of the person's household; and
    - (ii) are essential to the well-being of the person or members of the person's household; and
  - (d) the proximity and accessibility of the accommodation to local services, amenities and transport.

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(a) 1996 c. 52.

### **Circumstances in which accommodation is not to be regarded as suitable for a person**

3. For the purposes of a private rented sector offer under section 193(7F) of the Housing Act 1996, accommodation shall not be regarded as suitable where one or more of the following apply—

- (a) the local housing authority are of the view that the accommodation is not in a reasonable physical condition;
- (b) the local housing authority are of the view that any electrical equipment supplied with the accommodation does not meet the requirements of regulations 5 and 7 of the Electrical Equipment (Safety) Regulations 1994(a);
- (c) the local housing authority are of the view that the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;
- (d) the local housing authority are of the view that the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;
- (e) the local housing authority are of the view that the landlord is not a fit and proper person to act in the capacity of landlord, having considered if the person has:
  - (i) committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003(b) (offences attracting notification requirements);
  - (ii) practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business;
  - (iii) contravened any provision of the law relating to housing (including landlord or tenant law); or
  - (iv) acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004(c);
- (f) the accommodation is a house in multiple occupation subject to licensing under section 55 of the Housing Act 2004 and is not licensed;
- (g) the accommodation is a house in multiple occupation subject to additional licensing under section 56 of the Housing Act 2004 and is not licensed;
- (h) the accommodation is or forms part of residential property which does not have a valid energy performance certificate as required by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(d);
- (i) the accommodation is or forms part of relevant premises which do not have a current gas safety record in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(e); or
- (j) the landlord has not provided to the local housing authority a written tenancy agreement, which the landlord proposes to use for the purposes of a private rented sector offer, and which the local housing authority considers to be adequate.

Signed by the authority of the Secretary of State for Communities and Local Government

*Mark Prisk*  
Minister of State

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(a) SI 1994/3260.

(b) 2003 c.42. There are amendments to Schedule 3 not relevant to this Order. Schedule 3 was most recently amended by section 177 of and Schedule 21 to the Coroners and Justice Act 2009.

(c) 2004 c.34.

(d) SI 2007/991. The SI has been amended by SIs 2007/1669, 2007/3302, 2008/647, 2008/2363, 2009/1900, 2010/1456, 2011/2452 and 2012/809.

(e) SI 1998/2451.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Accommodation secured by a local housing authority, or secured from another person on the advice and assistance of the local housing authority, in the discharge of their housing functions under Part VII of the Housing Act 1996 ("the 1996 Act") must be suitable (section 206(1) of the 1996 Act).

The local housing authority is also required to be satisfied that the accommodation offered to an applicant by way of a private rented sector offer, under section 193(7AA) of the 1996 Act, is suitable for the applicant. An applicant who is eligible for assistance, in priority need and unintentionally homeless is owed the main homelessness duty (section 193(2) of the 1996 Act) by the local housing authority, to secure that accommodation is made available for occupation by the applicant. Section 193 of the 1996 Act was amended by the Localism Act 2011 to include a power for local housing authorities to discharge the main homelessness duty by way of a private rented sector offer (section 193(7AA) of the 1996 Act). A private rented sector offer is an offer of an assured shorthold tenancy by a private landlord which is made, with the approval of the authority, in pursuance of arrangements by the authority with the landlord with a view to bringing the authority's homelessness duty to an end. The assured shorthold tenancy offered is a fixed term tenancy for a period of at least 12 months. Section 193(7F) of the 1996 Act requires that a local housing authority is satisfied that the private rented sector offer accommodation is suitable.

The Secretary of State has the power to specify, by order, circumstances in which accommodation is or is not to be regarded as suitable for a person (section 210(2)(a) of the 1996 Act) and matters to be taken into account in determining whether accommodation is suitable for a person (section 210(2)(b) of the 1996 Act).

Article 2 makes provision for matters to be taken into account in determining whether accommodation is suitable for a person.

Article 3 sets out circumstances where accommodation which is being provided to an applicant for the purpose of a private rented sector offer under section 193(7F) of the 1996 Act is not to be regarded as suitable.

An impact assessment has been prepared in respect of this Order. It has been deposited in the Library of each House of Parliament and is available from the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU or email [john.bentham@communities.gsi.gov.uk](mailto:john.bentham@communities.gsi.gov.uk).

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STATUTORY INSTRUMENTS

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**2012 No. 2601**

**HOUSING, ENGLAND**

**The Homelessness (Suitability of Accommodation) (England)  
Order 2012**

£4.00

E4716 10/2012 124716T 19585

ISBN 978-0-11-152948-5



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## Accommodation Suitability Checklist

Local Authorities must ensure that accommodation secured by them in the discharge of their housing functions under Part VII of the Housing Act 1996 is suitable<sup>1</sup>. The general principles of suitability are made more explicit in the [Homelessness \(Suitability of Accommodation\) \(England\) Orders 1996](#) and [2003](#), and more recently the [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#).

Each Homelessness (Suitability of Accommodation) (England) order deals with the various aspects that must be considered by the local authority when determining the suitability of accommodation as detailed below:

Factor to be considered	Detail (relevant to Discharging of Statutory Homeless duties)
Size and Layout*	Homelessness (Suitability of Accommodation) Order 2003 determines that Bed & Breakfast accommodation is not to be regarded as suitable for an applicant with a family to discharge its main housing duty.
Affordability	Homelessness (Suitability of Accommodation) Order 1996 matters to be taken into account: <ul style="list-style-type: none"> <li>a) The financial resources available to the person, including but not limited to salary/fees and other remuneration, pensions, benefits (including insurance), payments for the benefit of a child/spouse (court orders and child maintenance), contributions made by others (including financial assistance provided by Local authority or other) towards accommodation costs and savings and other capital sums.</li> <li>b) The costs in respect of the accommodation including but not limited to rent, licences/occupancy payments, mortgage costs, service charges, mooring charges (houseboat), site costs (caravan/mobile home), deposits and letting agency fees.</li> <li>c) Payments the person is required to make for the benefit of a child/spouse (court orders and child maintenance)</li> <li>d) The person's other reasonable living expenses.</li> </ul>
Location	Homelessness (Suitability of Accommodation) Order 2012 matters to be taken into account: <ul style="list-style-type: none"> <li>a) Distance from Local Authority</li> <li>b) Disruption to household in terms of employment, caring responsibilities or education of the person or members of the person's household</li> <li>c) Proximity and access to medical facilities and support which               <ul style="list-style-type: none"> <li>(i) Are currently used by or provided to household</li> <li>(ii) Are essential to the well-being of the household and</li> </ul> </li> <li>d) Proximity and access to local services, amenities and transport</li> </ul>

<sup>1</sup> Section 206(1) of the Housing Act 1996



<p>Property Standards and management including:</p> <ul style="list-style-type: none"> <li>• Fitness for habitation &amp; Health and Safety (including Housing Health and Safety Rating System)</li> <li>• Fit and proper landlord</li> <li>• Houses in Multiple Occupation (HMO) Licensing</li> <li>• Energy Efficiency</li> <li>• Gas Safety</li> <li>• Tenancy agreement</li> </ul>	<p>Homelessness (Suitability of Accommodation) Order 2012 defines the following circumstances in which accommodation is not to be regarded as suitable where the local authority is of the view that:</p> <ul style="list-style-type: none"> <li>a) The accommodation is not in a reasonable physical condition</li> <li>b) Electrical equipment supplied does not comply with Reg 5 and 7 Equipment (Safety) Regulations 1994 (a)</li> <li>c) Reasonable fire precautions have not been taken (Accommodation and furnishings supplied)</li> <li>d) Reasonable carbon monoxide poisoning precautions have not been taken</li> <li>e) The landlord is not a fit and proper person because they have             <ul style="list-style-type: none"> <li>(i) Committed any offence inc. fraud, dishonesty, violence, drugs, schedule 3 Sexual Offences Act 2003 (b)</li> <li>(ii) Practised unlawful discrimination</li> <li>(iii) Contravened housing law (landlord or tenant law)</li> <li>(iv) Not acted in accordance with the code of practice for HMO</li> </ul> </li> </ul> <p>And/or</p> <ul style="list-style-type: none"> <li>f) The property should be HMO Licenced and it isn't (s55 HA 2004)</li> <li>g) The property should have an additional license and it doesn't (s56 HA 2004)</li> <li>h) The property does not have a valid Energy Performance Certificate</li> <li>i) The property does not have a current gas safety record</li> <li>j) The landlord has not provided an adequate written tenancy agreement</li> </ul>
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# Accommodation Suitability Checklist

(The Homelessness (Suitability of Accommodation (England) Order 2012)

<b>Address of property being offered</b>							
<b>Applicants name</b>							
<b>Landlords name</b>				<b>Rent</b>	£	PW	
					£	PCM	
<b>Test 1:</b>	<b>Size and layout of property</b>						
<b>1. Is anyone on the household elderly, disabled or has a health issue?</b>		Yes		No		<i>If yes, please Q2.</i>	
						<i>If no, go to Q3.</i>	
<b>2. Does the household have special space/layout requirements?</b>		Yes		No		<i>If yes, please evidence below</i>	
<i>The following must be considered</i>		<b>Is it an issue?</b>		Where an issue has been highlighted – please detail below evidence as to whether this has been mitigated or not?			
		Yes	No				
Essential requirement for a garden?							
Type of property (e.g 2 <sup>nd</sup> floor flat v garden)							
Mobility of householder							
Access to toilet/bathing/cooking facilities							
<b>Other space/layout issues (list below)</b>							
<b>3. Is the property the right size for the household?</b>		Yes		No		<i>If yes, please evidence below</i>	
Number of bedrooms in the property		Comments:					
Bedroom requirement of the household							
Does the household need additional space/bedrooms		Yes		No		<i>If yes, please complete below</i>	
<i>The following must be considered</i>		<b>Is it an issue?</b>		Where an issue has been highlighted – please detail below evidence as to whether this has been mitigated or not?			
		Yes	No				
Medical or health and wellbeing grounds							
Essential equipment storage requirements							
<b>Other size issues (list below)</b>							
<b>4. Are there any children in the household?</b>		Yes		No		<i>Please evidence below</i>	
<i>The following must be considered</i>		<b>Is it an issue?</b>		Where an issue has been highlighted – please detail below evidence as to whether this has been mitigated or not?			
		Yes	No				
Any health and safety risks (particularly to children)							
<b>Other health and safety issues</b>							
Any other comments or issues raised by the household?							
<b>Is the property the right size and layout for the household?</b>					<b>Yes</b>		<b>No</b>



Test 2:		Affordability of the property			
<b>5. Is there a shortfall between the rent and LHA/HB?</b>		Yes		No	<i>If yes, please complete below If no, go to Q6</i>
Property rental charge?	£				
LHA/HB/UC entitlement?	£				
Has DHP or other arrangements been put in place to pay the shortfall?		Yes		No	<i>If yes, please evidence below If no, offer cant proceed</i>
<b>Intervention/remedy</b>	<input checked="" type="checkbox"/>	<b>Approval date</b>	<b>Initial</b>		Comments :
DHP					
Negotiated reduction in rent					
Other <i>please state</i>					
<b>6. Has a financial assessment been carried out?</b>		Yes		No	<i>If yes, please complete below If no, offer cant proceed</i>
Residual income after meeting accommodation costs		£		Comments:	
Income support or income based JSA applicable		£			
Is residual income higher than IS/I-B JSA?		Yes		No	<i>If no, offer can't proceed</i>
Does the household need additional space/bedrooms		Yes		No	
<b>7. Are the household capable of managing their finances?</b>		Yes		No	<i>If yes, please complete below If no, offer can't proceed</i>
<b>Intervention/remedy</b>	<input checked="" type="checkbox"/>	<b>Date</b>	<b>Initial</b>		Comments:-
Money management course					
Support worker					
Pre-tenancy training					
Other <i>please state</i>					
<b>8. Are there any issues that will affect affordability in the next 12 months?</b>		Yes		No	<i>If yes, please complete below</i>
<i>The following must be considered</i>		<b>Is it an issue?</b>		Where an issue has been highlighted – please detail below evidence as to whether this has been mitigated or not	
		Yes	No		
Essential equipment storage requirements					
<b>Other size issues (list below)</b>					
Any other comments or issues raised by the household?					
<b>Is the property Affordable for the household?</b>				Yes	No



Test 3:		Location of property				
<b>9. Is the property outside of the household's preferred area of choice?</b>		Yes		No		<i>If yes, please complete below If no, go to Q10</i>
Preferred areas of choice						
Area of property offered						
Distance from SD border						
<b>10. Is there any reason why the location is not suitable?</b>		Yes		No		<i>If yes, please complete below</i>
The following must be considered		Is it an issue?		Where an issue has been highlighted – please detail below evidence as to whether this has been mitigated or not?		
		Yes	No			
Domestic abuse (risk to personal safety)						
Cultural/Faith needs						
Access to services (GP, hospital etc)						
Access to support						
Disruption to education						
Disruption to employment						
Disruption to caring responsibilities						
Isolation (access to transport, shops & facilities)						
Risk of violence/racial harassment						
Other location issues						
Any other comments or issues raised by the household?						
<b>Is the property location suitable for the household?</b>					Yes	No



<b>Test 4:</b>		<b>Property standards and management (see Accommodation Inspection Sheet)</b>					
Accommodation Inspection Sheet completed by:							
<b>Housing Options Adviser</b>		Date visit made:		<i>Responsible officer:</i>			
<b>Community Officer</b>		Date visit made:		<i>Responsible officer:</i>			
<b>11. Has the inspection concluded that the property fulfils the requirements of Part 2 Homelessness (Suitability of Accommodation) (England) Order 2012?</b>				Yes		No	
<i>Evidence – See Accommodation Inspection Sheet</i>							
Any other comments or issues raised by the household?							
Is the property in reasonable condition and the landlord a fit and proper person, as evidenced by completion of the inspection sheet?				Yes		No	
<b>Sign off</b>							
<b>I hereby certify that the above named property meets the Suitability Standards as defined by the Homelessness (Suitability of Accommodation) (England) Orders 1996 &amp; 2012</b>							
<i>Must be signed by Senior Officer (Housing Options Supervisor, Housing Officer, Lead Officer Housing)</i>							
Name _____		Title _____					
Signature _____		Date _____					



## Accommodation Inspection Sheet *For completion by trained Officer*

Test 4:	Property standards and management (see Accommodation Inspection Sheet)			
<b>Electrical Installation Safety</b>	Does the landlord have a valid NICEIC Certificate?	Yes		No
	NICEIC dated: _____ / _____ / _____			
<b>Portable Appliance Testing</b>	Does the landlord provide portable electrical appliances?	Yes		No
	PAT Test Certification dated: _____ / _____ / _____			
<b>Gas safety</b>	Are there any gas appliances in the property?	Yes		No
	Gas Safety Certificate Dated: _____ / _____ / _____			
<b>Fire safety</b>	Are there an adequate number of Smoke Alarms?	Yes		No
	Are they all working?	Yes		No
	Does the furniture comply with fire safety regulations?	Yes	No	n/a
<b>Carbon monoxide</b>	Are there any gas or solid fuel appliances?	Yes		No
	Adequate carbon monoxide alarms?	Yes		No
<b>Energy Performance</b>	Does the property have an Energy Performance Certificate?	Yes		No
<b>Licensable HMO</b>	Is the property a licensed housing in multiple occupation (HMO)?	Yes		No
	If Yes, HMO License Dated :- _____ / _____ / _____			
<b>Tenancy agreement</b>	Has a written tenancy agreement been provided?	Yes		No
<b>Does the landlord meet the "fit and proper" conditions?</b>		Yes		No
Do they have any unspent convictions that may be relevant? (in relation to fraud, dishonesty, violence, drugs or offences under the Sexual Offences Act 2003)		Yes		No
Check for unspent convictions dated :- _____ / _____ / _____				
Do SDC have any record that a court or tribunal have found that they have practiced unlawful discrimination on grounds of sex, colour, race, ethnic or national origin or disability?		Yes		No
Do SDC have any record that they have contravened any legislation relating to housing, public or environmental health, or landlord and tenant law which led to civil or criminal proceedings resulting in a judgement being made against the landlord?		Yes		No
Has SDC carried out any work in default to premises of which the landlord has been the owner or manager in the last 5 years?		Yes		No
Has the landlord ever had any application for a HMO/Property Licence refused, revoked or Management Orders imposed, in Selby or another local authority area?		Yes		No
<b>Outcome of visit (comments) :-</b>				
Name _____ Title _____				
Signature _____ Date _____				

## Appendix C - Legal & Policy Background

### 1.1 The Localism Act 2011:

- 1.1.1 [The Localism Act 2011](#) has made significant changes to the way in which local authorities can deal with applications for social housing and homelessness applications under Parts 6 and 7 of the Housing Act 1996. Local Authorities owe applicants, who are homeless, eligible for assistance, in priority need and not intentionally homeless, the main housing duty<sup>1</sup> to secure suitable accommodation (unless a referral to another local authority can be made under the local connection provisions).
- 1.1.2 Prior to the Localism Act 2011, local authorities were only able to discharge the main housing duty into the private sector as a “Qualifying Offer”, which required the applicant’s written consent<sup>2</sup>. The applicant could choose to decline the offer and wait in temporary accommodation pending another offer in the social rented sector. This has resulted in homelessness being perceived as the route to social housing and applicants spending longer in temporary accommodation.
- 1.1.3 The Localism Act<sup>3</sup> gives the Local Authority the power to discharge its main housing duty into the private rented sector providing that the offer is “suitable”<sup>4</sup> and the applicant is offered an assured shorthold tenancy with a minimum fixed term of one year, without the applicants consent.
- 1.1.4 If a household accepts a private rented sector offer under this policy and becomes unintentionally homeless from the property within two years of the tenancy start the full homeless duty is revived regardless of the household’s current priority need status. This reinstatement can only happen once.
- 1.1.5 This new power will potentially enable local authorities to increase the range of housing options available to them when discharging duty, including greater choice in terms of size, type and location. This, in turn, can reduce the length of time applicants have to wait in temporary accommodation for an offer and reduce the pressure on social rented stock.

For further information on the procedure to be followed when making a private rented sector offer please refer to the [Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#).

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<sup>1</sup> Where a main housing duty is owed, the authority must ensure that suitable accommodation is available for the applicant and his or her household. The duty continues until a settled housing solution becomes available for them, or some other circumstance brings the duty to an end (Section 193 of The Housing Act 1996 (amended 2002))

<sup>2</sup> Repealed by Localism Act s148(8)

<sup>3</sup> To discharge the full housing duty by a ‘private rented sector offer’ (s193(7AA)-(7AC) Housing Act 1996 as amended by s.148(5)-(7) Localism Act 2011

<sup>4</sup> As defined in the Homelessness (Suitability of Accommodation) (England) Orders 2003 and 2012





# Selby District Council

## REPORT

Reference: E/16/35

Public



**To:** The Executive  
**Date:** 5 January 2017  
**Status:** Non Key Decision  
**Report Published:** 23 December 2016  
**Author:** Chris Watson – Assistant Policy Officer  
**Executive Member:** Councillor Richard Musgrave – Lead Executive Member for Housing, Leisure, Health and Culture  
**Lead Officer:** Gill Marshall – Solicitor to the Council

**Title:** Charitable Collections Policy

### Summary:

Selby District Council is the Licensing Authority responsible for the licensing of charitable collections in Selby District. These charitable collections fall into two categories: Street Collections and House to House Collections. Implementation of a policy is considered to be best practice to ensure consistency and accountability in the licensing of these functions. This report sets out the proposed policy as well as results of the consultation process.

### Recommendations:

- i. To consider the Licensing Committee's resolution:  
*"To recommend that the hours during which house to house collections would ordinarily be permitted are amended [from 8am-8pm] to be 9am to 5pm and extended to 8pm during British Summer Time"*  
and determine the appropriate hours for the policy; and
- ii. To approve the draft Charitable Collections Policy.

### Reasons for recommendation

To bring consistency and accountability to the licensing of charitable collections in the district.

## 1. Introduction and background

- 1.1 Selby District Council is the Licensing Authority responsible for the licensing of charitable collections in Selby District. These charitable collections fall into two categories: Street Collections and House to House Collections. The licensing of street collections is regulated under the Police, Factories, etc., (Miscellaneous Provisions) Act 1916; and the regulation of house to house collections is under the House to House Collections Act 1939.
- 1.2 Both these acts give the Council authority to write regulations and policies to control charitable collections. Most Councils have such policies
- 1.3 The popularity and success of events such as the Tour de Yorkshire in the area have seen these days become popular collection date choices for charities. A policy will allow officers to equitably and consistently make decisions on restricting the number of collections.
- 1.4 The development of this draft Charitable Collections Policy (Appendix A) is an opportune time to help bring the charitable collection licensing in line with the Corporate Plan 2015-2020. This policy will help the council to be a great place to:
- Enjoy life – by ensuring that the district remains a safe and pleasant place to live by giving confidence that those collecting in the district have met our criteria; and
  - Make a difference – this policy gives preference to local charities to empower them to make a difference locally.
- 1.5 As part of the development stage of this draft policy, Officers carried out a benchmarking exercise to establish best practice, formed and consulted with an internal officer working group and noted the introduction of the 'Fundraising Regulator' which launched its 'Code of Fundraising Practice' on 7 July 2016, which we ask all charities collecting in the area to adhere to.
- 1.6 The draft Policy largely corresponds with current procedure with a few notable changes. These changes are shown in the below table:

Change	Rationale
The introduction of a Direct Debit – Voluntary Code of Conduct	This is designed to stop direct debit street collections from becoming considered a nuisance to the public.

Setting guidelines for the amount of proceeds to be given to a charity in a House to House Collection (80%)	The Policy Review Committee asked for a minimum to be included. The figure comes from benchmarking. 80% is a figure used by Kirklees and Daventry (our closest CIPFA comparator Council) amongst others. However setting absolute limits is problematic. The legislation states that the Council can refuse or revoke a licence where the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received). Therefore the percentage is expressed as a guideline rather than an absolute limit
Setting guidelines for the amount of the proceeds of a House to House Collection which can be spent expenses (20%)	As above.
Increasing the tacit authorisation period from 14 days to 28 days.	This brings tacit authorisation in line with the minimum notice required for a charitable collection. This means that if a charity has not heard from us by the day of the collection they may proceed as if they have a licence.
Introducing a route of appeal to Licensing Committee for Street Collectors	There is no legislative 'right' of appeal. This 'route' will therefore bring accountability to the service and ensure that the policy is being followed correctly.

1.7 The development of the draft policy has been designed to make procedures robust and protect the Council from legal challenge, whilst making the service transparent to both charities and the public.

## 2. The Report

2.1 A Consultation on the draft policy began on 6 October 2016 and closed on 23 November 2016 (following a one week extension at the request of Trading Standards for more time to respond). There are no statutory consultees. However, officers consulted broadly on the draft policy, including:

- The general public
- The Charity Commission
- North Yorkshire Police
- Charities/collectors who have applied for a licence in the last 12 months
- The Fundraising Regulator
- All district Councillors
- All Parish Councils
- Trading Standards
- Licensing Committee
- Policy Review Committee

2.2 We received thirteen formal consultation responses and some changes to the document have been made as a result of these. These responses included comments from the Police, Trading Standards, Parish Councils, collection

companies and the general public. These responses and the changes made as a result are listed in the table which can be found at Appendix B.

2.3 Officers attended the Licensing Committee on 7 November where the draft policy was considered. The Licensing Committee noted their new responsibility to hear appeals for street collection applications. The committee also raised concerns regarding the times at which house to house collections were proposed to be permitted.

2.4 The Licensing Committee were concerned that some residents may feel intimidated by house to house collections during the hours of darkness and so resolved:

***“To recommend that the hours during which house to house collections would ordinarily be permitted are amended [from 8am-8pm] to be 9am to 5pm and extended to 8pm during British Summer Time”***

2.5 The draft policy currently limits the collections to between 8am and 8pm (para 9.6 of the policy). This is an hour earlier than the Code of Fundraising Practice’s guideline of 9am-9pm (10am-9pm on weekends) for licences permitted when no local restrictions are set.

2.6 The Licensing Committee’s recommendation appears to address the concerns raised by members of the public during consultation. However, the Executive will need to be comfortable that amending the time limit is proportionate to charities and their aims. Failure to be proportionate may result in decisions being appealed to and potentially overturned by the secretary of state.

2.7 In addition, Officers also attended the Policy Review Committee on 15 November. The committee considered the draft policy and offered some wording amendments to the policy and report, and asked for clarity with regard to the word “excessive” at para 5.6 of the draft policy. These changes have been reflected in the amended policy and this report.

2.8 Officers have also received informal responses to the consultation’s promotion on social media. These included that “there are too many charity bags through the letterbox...” and that there is a need to prevent house to house collectors from collecting where there is a no cold calling zone in operation. As these concerns were all echoed in some way by formal consultation responses, they have therefore been considered as part of the consultation process.

### **3. Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

3.1 The licensing of charitable collections follows legislative procedures as set out in the legislation listed in paragraph 1.1 of this report. This policy proposes no

significant changes to procedure, but backs procedures with policy. This will reduce the risk of legal challenge.

- 3.2 Should the Executive follow Licensing Committee's revised house to house collection time limit recommendation it will need to be satisfied that the limit is considered to be proportionate to the charities and their aims. Failure to do so will leave the Council's house to house licences vulnerable to appeal.

### **Financial Issues**

- 3.3 The licensing of charitable collections is a statutory function for which we do not request a fee from customers. This policy proposes no significant changes to the running of the service; therefore, no risk is identified.

### **Other Policy Matters**

- 3.4 An Equality, Diversity and Community Impact Screening ('EDCI') has been completed for the draft strategy. The EDCI did not highlight any significant impacts; therefore a further assessment has not been carried out.

## **4. Conclusion**

- 4.1 The draft Policy has been developed to make the Council's charitable collections licensing robust, and any decisions made equitable and accountable.
- 4.2 Officers have consulted widely and made several minor changes to the policy as a result.

## **5. Background Documents**

*Equality Diversity and Community Impact Screening Document.*  
*Policy Review Committee (21 July 2016) – [Report and Minutes](#)*  
*Licensing Committee (7 November 2016) – [Report and Minutes](#)*  
*Policy Review Committee (15 November 2016) - [Report and Minutes](#)*

### **Contact Officer:**

*Chris Watson*  
*Assistant Policy Officer*  
*cwatson@Selby.gov.uk*

*Gill Marshall*  
*Solicitor to the Council*  
*gmarshall@selby.gov.uk*

### **Appendices:**

Appendix A – draft Charitable Collections Policy  
Appendix B – Consultation Responses



# Charitable Collections Policy





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# 1 Introduction

- 1.1. We are the Licensing Authority responsible for licensing charitable collections in Selby district. Charitable collections fall into two categories: **House to House Collections** for money or property and **Street Collections**, which include collections for cash or the sale of articles in the street. If articles are sold for personal gain a Street Trading Consent will be required.
- 1.2. The licensing of charitable collections is regulated by two separate Acts of Parliament:
  - a) The '*Police, Factories, Etc. (Miscellaneous Provisions) Act 1916*' ('the 1916 Act') which regulates collections of money or sales of articles for charitable purposes in streets and public places; and
  - b) The '*House to House Collections Act 1939*' ('the 1939 Act') which regulates collections of money or other articles made by means of going from house to house.
- 1.3. Both Acts give us the power to write regulations and policies to control charitable collections.
- 1.4. This policy document forms our Charitable Collections Policy that will apply to Street and House to House Collection activities in the Selby District area to ensure consistency in decision making.
- 1.5. We are always trying to improve the district and believe that effective licensing of charitable collections through this policy will help us achieve our Corporate Plan 2015-2020 (available to view at [www.selby.gov.uk](http://www.selby.gov.uk)) by making Selby a great place to:
  - a. **Enjoy life** – ensuring that the district remains a safe and pleasant place to live by giving confidence that those collecting in the district have met our criteria; and
  - b. **Make a difference** – this policy gives preference to local charities to empower them to make a difference locally.
- 1.6. This policy will be reviewed periodically, taking into account any changes in legislation.

## **2. General Principles**

- 2.1. Each application we receive will be considered on its own merits based on the licensing principles detailed in this policy.
- 2.2. Where it is necessary for us to depart substantially from this policy, clear and compelling reasons for doing so must be given. A duly authorised officer may authorise a departure from the policy in accordance with this section if he/she considers it necessary in the specific circumstances.
- 2.3. We will take into account any decision from another local authority to refuse permission for the individual or organisation in question to hold a street or house to house collection and the reasons for it.
- 2.4. We will take into account information or advice supplied by the police or other relevant bodies in deciding whether or not to grant a permit.

## **3 Aims**

- 3.1. The aims of this policy are to:
  - a) give detailed guidance on the application of the law relating to charitable collections;
  - b) provide a clear idea of the requirements that charitable organisations, promoters and collectors must meet before, during and after collections take place;
  - c) set out the administrative procedures involved in obtaining a licence; and
  - d) ensure that residents in the Selby District area wishing to donate to charity through a Street or House to House collection are able to do so in good faith and secure in the knowledge that an adequate proportion of what they donate will directly benefit the named charity.

# Street Collections

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## 4 Introduction

- 4.1. We issue licenses (also known as permits) for collections made in 'any street or public place' for 'charitable or other purposes' in accordance with Section 5 of the 1916 Act.
- 4.2. '**Street**' is defined as including any highway and any public bridge, road, lane, footway, square, court, alley or passage whether a thoroughfare or not.
- 4.3. A '**public place**' is defined as places where public have access and will include shopping centres and the entranceways to shops. The foyer of a supermarket could be considered to be behind closed doors, and therefore would only require the consent of the manager; however, if the collection also took place outside or in the car park, a licence would be required.
- 4.4. Permit holders are not restricted to the collection of money only - they can also sell articles on behalf of a charity.
- 4.5. To support the control of street collections taking place we have passed regulations, and these can be found at Appendix 1. Failure to comply with these regulations can result in a person liable on summary conviction to a fine not exceeding £200.00.

## 5 What we expect from Charities:

### Applications

- 5.1. We must receive one month (28 days) notice between your application and the proposed collection date (we may waive this requirement in exceptional circumstances e.g. urgent natural disaster relief).
- 5.2. Application forms are available on request:
  - By calling us on 01757 705101;
  - Online at [www.selby.gov.uk/street-collections](http://www.selby.gov.uk/street-collections) ; or
  - From the following postal address:

Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

- 5.3. Applications can be submitted:
- **Online** - at the following address:  
[www.gov.uk/street-collection-licence/selby/apply](http://www.gov.uk/street-collection-licence/selby/apply)
  - **By email** – to [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)
  - **By post** – to the above address:
- 5.4. Applications must be completed in full. If further information is needed you must provide this in a timely fashion or it may result in delay to the consideration of or refusal of your application.
- 5.5. If your application proposes to use any table, ‘A-board’ etc. in conjunction with the street collection your application must be supported by:
- Public Liability insurance; and
  - Written permission from the landowner or Local Highways Authority (North Yorkshire County Council).
- 5.6. We ask that you do not submit an excessive number of applications. We will ordinarily only allow each charity to collect a maximum of 2 occasions per locality per year. Further applications will be considered on a case by case basis and granted where exceptional circumstances can be demonstrated and at the Officer’s discretion.
- 5.7. We request that any charity carrying out a collection in the area follows the rules set out in the Fundraising Regulator’s ‘Code of Fundraising Practice’ (which can be found at the following address <https://www.fundraisingregulator.org.uk/>).

#### **Collections on Private Land**

- 5.8. If you wish to carry out a collection on private land:
- ✓ You will need permission from the landowner.
  - ✗ You do not need a permit from us for these collections.

#### **Returns**

- 5.9. You must forward a financial return form (available on request or from our website [www.selby.gov.uk/street-collections](http://www.selby.gov.uk/street-collections)) to us within 28 days from the date of collection showing details of the monies collected.
- 5.10. A return form can be submitted online at the following address: [www.gov.uk/street-collection-licence/selby/tell-us-once](http://www.gov.uk/street-collection-licence/selby/tell-us-once)
- 5.11. No further permits will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

### **Direct Debits**

- 5.12. Direct Debit street collections do not require a formal permit but notification of collection dates is required using the formal street collection application process.
- 5.13. The Licensing authority will 'informally' permit one Direct Debit Street Collection by a single charity per locality, per month.
- 5.14. Preference will be given to standard Street Collection applications.
- 5.15. We ask that all Direct Debit street collections are undertaken following our Voluntary Code of Conduct (Appendix 2) and the Fundraising Regulator 'Code of Fundraising Practice' ([www.fundraisingregulator.org.uk/code-of-fundraising-practice/code-of-fundraising-practice/](http://www.fundraisingregulator.org.uk/code-of-fundraising-practice/code-of-fundraising-practice/)).

## **6 What Charities can expect from us:**

### **Applications**

- 6.1. We will deal with your application giving due regard to our general principles detailed in section 2.
- 6.2. Permits will be issued on a first come first served basis.
- 6.3. We will normally only allow one street collection by a single charity within any one locality per week.
- 6.4. However priority will be given to:
  - Local charities; or
  - Charities with a local connection.
- 6.5. Exceptions to this will be for certain national charities whose collections are linked to specific dates in the year and preference will be given to these charities e.g. Children in Need, Royal British Legion and Christian Aid Week.
- 6.6. Preference will also be given to those charities that are registered with The Fundraising Regulator.
- 6.7. If you have not heard from us within 28 days of your application being submitted, you will receive 'tacit authorisation' and you may proceed with your collection as if a permit had been issued.
- 6.8. The locality will be determined by a duly authorised officer giving regard to each application.

- 6.9. At our discretion, in special circumstances we will allow two or more collections within any one locality (for example, if one collection is limited to a market stall).
- 6.10. Where an applicant seeks a permit to cover multiple locations with several collectors, we may limit the number of permits to one.
- 6.11. Further details on the rules and procedures concerning Street Collections are contained in Appendix 1: Street Collection Regulations.

### **Appeals**

- 6.12. Where an application for a permit is refused by us, we will offer the applicant a route of appeal through our Licensing Committee.
- 6.13. An appeal must be lodged within 14 days of the date on which notice of refusal or revocation was given to the applicant or licence holder.
- 6.14. We offer no route of appeal to Direct Debit Street Collections.

# House to House Collections

---

## 7 Introduction

- 7.1. House to house collections involve the collection of either money or items directly from a person's property. They are a vital source of funds for many charities as they offer a positive opportunity for the public to support charities. However, they need to be carried out for the benefit of the charity and in accordance with the law.
- 7.2. This policy acknowledges bogus House to House collectors have been an issue nationally and as such it is vital that licences are issued to legitimate applicants. This can give the public confidence that if the collection is licensed an adequate proportion of their donations are being given to the appropriate charity.
- 7.3. House to House collections are controlled by the 1939 Act and the House to House Collections Regulations 1947 ('the Regulations').
- 7.4. House to House collections are for charitable, benevolent or philanthropic purposes.
- 7.5. The definition of '**collection**' extends beyond requests for money, to include the sale of magazines, requests for unwanted clothing and household items, visits to persuade people to buy goods etc., where any part of the proceeds may go to charity.
- 7.6. A collection for a charitable purpose cannot be made unless the provisions of the 1939 Act and the Regulations are complied with; otherwise an offence may be committed. If any person or organisation promotes a charitable collection then they must have a licence to do so.
- 7.7. Anyone acting as a collector where there is not a licensed promoter under whose authority they act also commits a criminal offence.
- 7.8. Offences are punishable by penalties ranging from a fine of up to £200 or in some cases up to six months imprisonment and a fine of up to £1000.
- 7.9. The primary exception to the general rule is organisations that have been granted an Exemption Certificate by the Cabinet Office under the provisions of the House to House Collections Act 1939. This certificate allows an organisation to collect in an area without applying for a licence. The organisation must inform the Licensing Authority of the dates and areas of any planned collections. Details of such exempt organisations can be found on the Cabinet Office website (<https://www.gov.uk/government/organisations/cabinet-office>).

- 7.10. As well as national exemptions, the police can issue a certificate of exemption granted on the grounds that the purpose of the collection is local in character and is likely to be completed in a short period of time (typically, no more than 2 weeks). Further information on police exemptions is available here: <https://northyorkshire.police.uk/what-we-do/licensing/house-to-house/>

## 8. What we expect from Charities:

### Applications

- 8.1. We must receive one month (28 days) notice between your application and the proposed collection (we may waive this requirement in exceptional circumstances).
- 8.2. Application forms are available on request:
- By calling us on 01757 705101;
  - Online at <http://www.selby.gov.uk/house-house-collections-licence> ; or
  - From the following postal address:
- Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT
- 8.3. Applications can be submitted:
- **Online** - at the following address:  
[www.gov.uk/apply-for-a-licence/house-to-house-collection-licence/selby/apply-1](http://www.gov.uk/apply-for-a-licence/house-to-house-collection-licence/selby/apply-1)
  - **By email** – to [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)
  - **By post** – to the above address.
- 8.4. Applications must be completed in full. If further information is needed you must provide this in a timely fashion or it may result in delay to the consideration of or refusal of your application.
- 8.5. A copy of the contract between the collector and the charity must be provided to us with the application.
- 8.6. On all applications the applicant must also supply information relating to:-
- Whether the collection beneficiary is a registered charity (with charity number), and the objectives of the charitable cause as supplied to the Charity Commission (we accept applications from small local charities who are not registered, but further scrutiny will be required)
  - A statement of the company organisations aims as detailed in any literature



- Details of the history of the organisation, i.e. when formed; names of trustees, directors, organisers, etc, relevant accounts and financial statements of both the applicant, collection company and the charity (if different)
- Remuneration amounts of senior members of the applicant's organisation and the charity
- A written agreement between the applicant and the charity as required by the Charities Act 1992.
- Declaration of any previous refusals for House to House Collections
- A basic Disclosure and Barring Service disclosure relating to the Applicant for the licence or director of the collection company if different.

8.7. We can refuse or revoke a licence for a number of reasons (more specifically set out in the 1939 Act). We may refuse to grant a licence or, where a licence has been issued, may revoke a licence if:

- a) If the remuneration is excessive in relation to the total amount applied for charitable purposes which is likely to be, or has been, retained or received out of the proceeds of the collection (refusal will be considered if this is over 20% of the net value of the collection – Officers should consider information from the applicant, relevant law and guidance when reaching this decision);
- b) If the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received) (refusal will be considered if this less than 80% of the net value of the collection – Officers should consider information from the applicant, relevant law and guidance when reaching this decision);
- c) If the grant of a Licence would be likely to facilitate the commission of an offence under Section 3 of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection;
- d) If the promoter or any other person involved in the collection has been convicted of certain criminal offences eg burglary, blackmail or fraud or the granting of the Licence is likely to facilitate the criminal offences;
- e) If the applicant or holder of the licence has failed to exercise due diligence to ensure that the collectors are fit and proper, to ensure compliance with the provisions of the House to House regulations or to prevent prescribed badges or certificates of authority being obtained other than by authorised persons; or

f) If necessary information is omitted or incorrect information was submitted as part of the application form.

- 8.8. In addition to the reasons set out in the 1939 Act we may also refuse or revoke a licence if complaints are received directly or via a third party as to the conduct and/or collection method(s) of the charity in question.
- 8.9. No collections should take place in any area which is operating a 'no cold calling zone' or when an individual is displaying a sign/sticker which states 'no cold callers' or similar wording to that effect.
- 8.10. We request that any charity carrying out a collection in the area follows the rules set out in the Fundraising Regulator's 'Code of Fundraising Practice' (which can be found at the following address <https://www.fundraisingregulator.org.uk/>).

### **Returns**

- 8.11. You must forward a financial return form (available on request or from our website [www.selby.gov.uk/house-house-collections-licence](http://www.selby.gov.uk/house-house-collections-licence)) to us within 28 days from the date of collection showing details of the monies collected.
- 8.12. A return form can be submitted online at the following web address: [www.gov.uk/apply-for-a-licence/house-to-house-collection-licence/selby/tell-us-once-1](http://www.gov.uk/apply-for-a-licence/house-to-house-collection-licence/selby/tell-us-once-1)
- 8.13. No further permits will be issued to any applicant that has failed to forward the financial return form in respect of previous collections.

## **9. What Charities can expect from us:**

### **Applications**

- 9.1. We will deal with your application giving due regard to our general officer principles detailed in section 2.
- 9.2. Permits will be issued on a first come first served basis.
- 9.3. However priority will be given to:
- Local charities; or
  - Charities with a local connection.

- 9.4. We will not issue a house to house collection licence for a period of more than 12 months.
- 9.5. We will make every attempt to only permit one house-to-house collection in each location per week, with exceptions considered, including:
- where collection dates of charities holding Exemption Certificates overlap;
  - where collection dates of charities holding Police exemption certificates (where known) overlap;
  - with collection dates already granted by the Licensing Authority to non-Exemption Certificate holders;
  - for small-scale collections in a limited area;
  - during the pre-Christmas period; and
  - for organised one-day charitable events.
- 9.6. We will ordinarily only allow collections to take place between the hours of 08:00 and 20:00. Extra care should be taken by fundraisers when calling once darkness has fallen so as not to cause alarm or distress to householders.
- 9.7. If you have not heard from us within 28 days of your application being submitted, you will receive 'tacit authorisation' and you may proceed with your collection as if a permit was issued.

### **Appeals**

- 9.8. There is a right of appeal to the Minister for the Cabinet Office against our decision to refuse an organisation a licence to hold a house to house collection or to revoke such a licence.
- 9.9. An appeal must be lodged within 14 days of the date on which notice of refusal or revocation was given to the applicant or licence holder.

## **10. What the public can expect from us:**

- 10.1. We will publish details of approved/licenced collectors on our website.
- 10.2. We will make every effort to limit the number of collections to ensure they are not becoming a nuisance to the public.
- 10.3. The public can be confident that a licence will only be issued if we are satisfied:
  - The charity is a genuine charity
  - The collection is for an appropriate cause
  - Local charities have been given priority where possible
  - Enough of the proceeds are to be contributed to the charitable cause

## **11. Enforcement**

- 11.1. We recognise that well directed enforcement activity benefits both the public and responsible collectors.
- 11.2. We will carry out any enforcement in line with our Corporate Enforcement Policy.
- 11.3. We aim to work closely with other enforcement agencies when investigating unauthorised Collections and Promoters of those collections and persons causing a nuisance, annoyance or harassment to the public.

## **12. Information Sharing**

- 12.1. We will share with other enforcement bodies information supplied by applicants, or acquired in the course of exercising licensing functions, where it is lawful to do so.
- 12.2. Personal information will only be disclosed in accordance with the Data Protection Act 1998. This may include requests from the Audit Commission or other regulatory agencies where this is necessary for the detection or prevention of crime or required by law or in connection with legal proceedings.

## Appendices

### Appendix 1: Street Collections Regulations

1 In these Regulations, unless the context otherwise requires:-

“**collection**” means a collection of money or a sale of articles for the benefit of charitable or other purposes and word “collector” shall be construed accordingly;

“**promoter**” means a person who causes others to act as collectors;

“**the Licensing Authority**” means **THE SELBY DISTRICT COUNCIL**;

“**permit**” means a permit for a collection;

“**contributor**” means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of a charitable or other purposes;

“**collecting box**” means a box or other receptacle for the reception of money from contributors

2 No collection shall, other than as collection taken at a meeting in the open air, be made in any street or public place within the area of the Selby District unless a promoter shall have obtained from the Licensing Authority a permit.

3 Application for a permit shall be made in writing not later than one month before the date on which it is proposed to made the collection:-

Provided that the Licensing Authority may reduce the period of one month if satisfied that there are special reasons for so doing.

4 No collection shall be made except upon the day and between the hours stated in the permit.

5 The Licensing Authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.

6 (1) No person may assist or take part in any collection without the written authority of a promoter

(2) Any person authorised under paragraph (1) above shall produce written authority forthwith for inspection on being requested to do so by a duly authorised Officer of the Licensing Authority or any Constable.

- 7 No collection shall be made in any part of the carriageway of any street which has a footway:-

Provided that the Licensing Authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with the procession.

- 8 No collection shall be made in a manner likely to inconvenience or annoy any person.

- 9 No collection shall importune any person to the annoyance of such person.

- 10 While collecting:-

- (a) a collector shall remain stationary; and
- (b) a collector or two collectors together shall not be nearer to another collector than 25 metres.

Provided that the Licensing Authority may, if it thinks fit, waive the requirements of this Regulation in respect of a collection which has been authorised to be held in connection with a procession.

- 11 No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector.

- 12 (1) Every collector shall carry a collecting box.

- (2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.

- (3) All money received by a collector from contributors shall immediately be placed in a collecting box.

- (4) Every collector shall deliver, unopened, all collecting boxes in his possession to the promoter.

- 13 A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.

- 14 (1) Subject to paragraph (2) below, a collecting box shall be opened in the presence of a promoter and another responsible person.
  - (2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official at the bank.
  - (3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with a number of collecting box on a list which shall be certified by that person.
- 15 (1) No payment shall be made to any collector
  - (2) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the Licensing Authority.
- 16 (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Licensing Authority.
    - (a) a statement in the form set out in the Schedule to these Regulations, or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection and certified by that person and a qualified accountant;
    - (b) a list of the collectors;
    - (c) a list of the amounts contained in each collecting box; and shall, if required by the Licensing Authority, satisfy it as to the proper application of the proceeds of the collection.
  - (2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph (1)(a) above publish in such newspaper or newspapers as the Licensing Authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit relates, the name of the charity or fund to benefit,

the date of the collection, the amount collected and the amount of the expenses and payments incurred in connection with such collection.

- (3) The Licensing Authority may, if satisfied there are special reasons for so doing extend the period of one month referred to in paragraph (1) above.
- (4) For the purposes of this Regulation “a qualified accountant” means a member of one or more of the following bodies:-

The institute of Chartered Accountants in England and Wales

The Institute of Chartered Accountants for Scotland

The Association of Certified Accountants

The Institute of Chartered Accountants in Ireland.

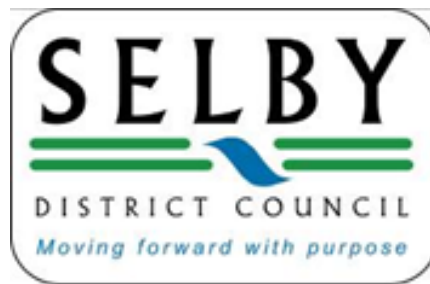
17 These regulations shall not apply:

- (a) in respect of a collection taken at a Meeting in the open air; or
- (b) to the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.

**AMENDMENT** (Section 3) of the Criminal Law Act, 1997

Any person who acts in contravention of any of the foregoing regulations shall be liable on summary conviction to a fine not exceeding two hundred pounds for a first or subsequent offence.





## **Voluntary Code of Conduct for Charity Collectors**

### **Collecting by Direct Debit**

1. Only 2 collectors are allowed to work in any locality at any one time.
2. Only one direct debit collection, by a single charity will be allowed per month, per locality.
3. Permission will be issued on a first come, first served basis.
4. Standard Street Collection requests will be given priority over Direct Debit requests.
5. If a collection has previously been carried out in the area for the same charity within the previous six months, priority would be given to another charity that hadn't yet collected within that time period.
6. Bookings for direct debit collections will be taken a minimum of 28 days prior to the dates required and a maximum of 3 months in advance.
7. The name of the charity and the charity number must be given at the time of the request.
8. Requests must be made on official forms and signed to say the collectors abide by the code of conduct.
9. Selby District Council requests the right to obtain copies of the solicitation statement.
10. Collectors must not harass, pressurise or mislead members of the public.
11. Collectors must always respect the public and behave appropriately.
12. No promoter, collector or person otherwise connected to the collection shall permit a person under the age of 16 years to act as a collector.

13. The public has the right to request permission to see the permit at any time during the collection to ensure the appropriate measures have been taken.

14. I.D. must always be worn for verification purposes.

15. Security is at all times to be maintained when handling personal details.

16. We maintain the right to refuse a permit.

17. A full and accurate report is made when a member of public has felt the need to complain and the details passed onto our relevant officer.

Enquiries to:

Licensing, Selby District Council, Civic Centre, Doncaster Road, Selby, YO8 9FT.

Telephone: 01757 705101

Email: [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)

	Consultation Response	Category of responder	Resulting change to policy
1	<p>Thank you for the opportunity to comment on the above consultation, this was considered at a recent [Barlby and Osgodby] Town Council Meeting.</p> <p>The Town Council has no comments.</p>	Town/Parish Council	n/a
2	<p>Thank you for your letter of 10 October.</p> <p>My views on the charitable collections, as per the RSPCA collection, are that:</p> <ol style="list-style-type: none"> <li>1. They should not be taking place as vulnerable people feel pressurised by the presence of an individual at their door by the hard sell of that individuals at the door. Myself and my other retired neighbours felt this. If we wish to donate to a charity we will do this off our own back. Several of us already do this.</li> <li>2. If you feel you are not going to stop the collections they can not take place after day light hours, as per the RSPCA, as again for anyone it is daunting answering the door when it is dark when you are not expecting anyone visiting. Family and friends are aware of this and would let you know if they were going to be visiting after daylight hours.</li> <li>3. Another of my concerns is that when the RSPCA were collecting, if there was no answer at the door in the day time, notes were being made against the address for a visit to be made at the evening. This is not right as these lists could get into anyone's hands and puts the security of your home at risk when it is noted you are not in the day.</li> </ol> <p>I hope my views and concerns will be taken into consideration at the review.</p> <p>I look forward to hearing the outcome.</p>	Member of the public	<ol style="list-style-type: none"> <li>1. None – it is not proportionate to stop all collections in the District and not possible for nationally exempt charities such as the RSPCA</li> <li>2. It is too uncertain to limit to daylight hours and this would lead to large operating hours during British Summer Time (BST). Currently the policy states 8am-8pm (para 9.6 of the draft policy), which is an hour earlier than the Code of Fundraising Practice's 9pm finish in the absence of a locally set time limit. A decision is to be reached regarding Licensing Committee's recommendation to limit the time from 9am-8pm during BST and 9am-5pm during the winter months when using Greenwich Mean Time.</li> <li>3. None - Use of Personal Data is covered under the Fundraising Regulator's Code of Fundraising Practice which the Policy requires compliance with. The Code also requires that approaches be made in areas during the operating hours set by the terms of the licence unless a follow up is agreed with an individual.</li> </ol>
3	<p>I would like to bring to your attention a problem experienced recently by an elderly friend of mine... Someone representing the RSPCA called at her</p>	Member of the public	<ol style="list-style-type: none"> <li>1. The proposed policy limits to collections times as above</li> </ol>

	Consultation Response	Category of responder	Resulting change to policy
	<p>home at 8pm at night to persuade her to make a monthly direct debit payment to the charity. She is quite nervous about answering the door when it's dark and the charity representatives were quite persuasive. I live in an area where no cold calling is allowed and would support something similar for [the friend's street] ( and would suggest that such a policy be rolled out for a larger area). I'm sure that most people would agree with this.</p>		<p>2. We are proposing to include a clause which states charities must not collect in no cold calling zones or where an individual is displaying a no cold calling sign/sticker (or other wording to the same effect) to make it clear beyond it not being permitted under the Code of Fundraising Practice (para 8.8 of the draft policy).</p>
4	<p>(1 of 2) You are consulting on policy proposals.</p> <p>I object most strongly that there is consent given for door to door collections, not least it will be seen as an endorsement of such people by the SDC.</p> <p>People arriving on your doorstep without invitation is an intrusion into your privacy and a violation of Article 8 of the HRA.</p> <p>I totally believe and give generously to charities, but it is on my terms, the intimation that you should enter into direct debit renewable donations is an encouragement to criminal theft of the information.</p>	Member of the public	<p>(SDC response) Thank you for your consultation response. I have considered your response and have the following comments to make:</p> <ol style="list-style-type: none"> <li>1. It is noted that you object to the approval of any House to House Collection Licence. It would not be proportionate for the Council to hold a blanket ban on these licences. However, in the draft policy we have looked to limit their quantity and the times they can operate in. We will also not permit them to take place in a "no cold calling zone" or at any individual residence which shows a sign or sticker which states "no cold callers".</li> <li>2. Article 8 is a qualified right, it may therefore be interfered with if proportionate and in pursuit of a legitimate aim. In this case the charity is the legitimate aim and legislation, regulations and the policy will ensure this is proportionate.</li> <li>3. Whilst we do not issue permits for direct debit street collections as they are</li> </ol>

	Consultation Response	Category of responder	Resulting change to policy
			<p>unregulated nationally and locally, the draft policy is looking to introduce a code of conduct to ensure proportionality in collections. In the event of a house to house direct debit collection (and all other collections) the draft policy proposes collectors adhere to the Fundraising Regulator's <u>Code of Fundraising Practice</u>, which makes it clear collectors should work in a way which is legal, open, honest and respectful.</p> <p>If you have any further comments about the policy specifically, please get in touch.</p>
5	<p>(2 of 2) Thank you for courteous and prompt response.</p> <p>I can recognise the dilemma that you face.</p> <p>BUT</p> <p>These days there are som many intrusions into your private lives and the high risk of being abused by the collector if you do not contribute.</p> <p>The collector MUST state, in a reliable manner, the percentage of the donation that is given to the charity</p> <p>I have read through the Code and feel that it is a good start but needs to be enlarges.</p> <p>A collector MUST state at the outset that there are no obligations to give and that the collector will leave if the prospective donor does not wish to give</p>	Member of the Public	<ol style="list-style-type: none"> <li>1. None - The policy is limiting collections to 1 a week, benchmarked policy standards are 1 per day.</li> <li>2. None - This is set at 80% in the policy, therefore on production of a licence the public will know at least 80% goes to the charity</li> <li>3. None - The Code of Fundraising Practice is in addition to what we have in our policy</li> <li>4. None – it is expected that a collector will leave once a prospective donor declines to give under the Code of Fundraising Practice</li> <li>5. The proposed change to collection time limits is set out above</li> <li>6. The introduction of a no cold callers clause is set out above. The Lead Coordinator for Neighbourhood Watch</li> </ol>

	Consultation Response	Category of responder	Resulting change to policy
	<p>Collections MUST not be after 7.30 pm</p> <p>Attempts at collection MUST not be made from households that have a sign saying no cold callers (the SDC might care to give these to ratepayers.</p> <p>Collectors MUST not make records of those households that do not respond to contact - such records are of use to criminals</p> <p>We live in age of many nuisance telephone calls and other intrusions of privacy, please do not add to it.</p>		<p>has recently written to all no cold calling zones and has confirmed all signs are up to date.</p> <p>7. None - Use of Personal Data is covered under the Fundraising Regulator's Code of Fundraising Practice which the Policy requires compliance with. The Code also requires that approaches be made in areas during the operating hours set by the terms of the licence unless a follow up is agreed with an individual</p> <p>8. None – the policy is limiting collections, not adding to them.</p>
6	<p>The Charity Collections Policy was discussed at a recent [Tadcaster Town] Council meeting.</p> <p>The Council would like to see more restrictions on the times allowed for cold calling, particularly in winter months and during the dark evenings. The Council also expressed concern at the fact that some representatives were collating information/lists of unoccupied houses.</p> <p>The Council has had reports from several concerned residents who had experienced cold calling on evenings which has caused distress.</p>	Town/Parish Council	<p>1. The changes to restrictions on time are set out above</p> <p>2. None - Use of Personal Data is covered under the Fundraising Regulator's Code of Fundraising Practice which the Policy requires compliance with. The Code also requires that approaches be made in areas during the operating hours set by the terms of the licence unless a follow up is agreed with an individual</p>
7	<p>With reference to this document I would like to know why Appendix 2 <b>Voluntary Code of Conduct for Charity Collectors Collecting by Direct Debit</b> is voluntary rather than an imposed code of conduct.</p> <p>Points 10. 'Collectors should not harass, pressurise or mislead members of the public'. &amp; 11. 'Collectors must always respect the public and behave appropriately ' ought to be adhered to at all times for the benefit of residents particularly those who are vulnerable. Some well-known Charities have in the past arrived en masse with groups of four or five arriving on residents</p>	Town/Parish Council	<p>1. None – The Voluntary Code is for use for Direct Debit Street Collections only. These collections are outside the scope of legislation so cannot be legally regulated nationally or locally.</p> <p>2. None – well known charities are likely to be 'nationally exempt charities' which we cannot stop from collecting. It is</p>

	Consultation Response	Category of responder	Resulting change to policy
	<p>doorsteps which can be intimidating and is not necessary, this should not be allowed.</p> <p>A recent complaint from residents following House to House collections was that when challenged about who had given permission for the collection, the collector specified the Police had given permission,, the resident doubted this and the collector said they would check with a supervisor but did not return. The resident was concerned about vulnerable elderly residents who find it hard to answer the door and are upset at being disturbed, many of them also live alone.</p> <p>In another recent incident the Police fortunately were called following resident's concerns and it was found that they did not have the necessary permits and were turned away.</p> <p>It appears that much of the document covers concerns but only if the rules are enforced- wording such as 'Voluntary' Code of Conduct does not convince me that the advice will be adhered to.</p>		<p>however advised to report any concerns to us so we can investigate and make representations to the collection company where necessary.</p> <p>3. None – vulnerable residents may set up a no cold calling zone – the inclusion of these zones in the policy is set out above.</p> <p>4. None – we set out in the policy that we will advertise approved/licenced collections on our website.</p>
8	<p>I am writing to you on behalf of the [Selby] Town Council and in particular the Market. We allow charities to use a stall on the market throughout the year. In the draft policy it states two categories, House to House and Street Collections.</p> <p>Within Section 4 of the draft policy, Street Collections – 4.2 <b>Street</b> definition includes square and 4.3 <b>public place</b> includes a shopping centre. Would the Monday Market fall within these two areas? We believe the market is outside these two categories.</p> <p>Under 5.8 collection on private land – the town council hold the Market Rights for Monday Markets. We pay business rates for the Market to the District Council (landowners) We give charities permission to have a charity stall, free of charge.</p>	Town/Parish Council	<p>A Market stall is considered a public place, so charities will require a licence/permit.</p> <p>The town council cannot be an exception to the licencing as exceptions are set by legislation. However, use of a market stall limits the collection area significantly, therefore this can be considered a circumstance where more than one street collection in the same locality would ordinarily be permitted on one day (proposed wording amended at 6.9 of the draft policy).</p>

	Consultation Response	Category of responder	Resulting change to policy
	<p>Could the town council be an exception (as 6.5 in the draft policy states exceptions)? We only allow <u>local</u> charities to use the free charity stall, not national charities and it is rare that a charity uses the stall more than one per annum, they use the stall for a tombola, bric-a-brac stall etc and funds raised on the day go back to their charity. Should each charity be asked to apply for a licence from the District Council – with 28 days’ notice (section 5.1 of the draft policy) if they do need to apply for a permit/licence it is unlikely that they would go ahead. How much is a permit/licence?</p> <p>I would be grateful if you could let me have your response to my queries.</p>		<p>The charity would need to provide written proof of permission from the town council as part of the application process procedure.</p> <p>There is no fee for the licence/permit.</p>
9	<p>I am in favour of cash collections in public areas, shopping, high streets etc.,</p> <p>I disagree with knocking on doors of unknown people especially in the evening. Asking for direct debit collections without prior notice is putting vulnerable people at risk of exploitation. Not everyone is able to withstand arguments &amp; think clearly about their own situation.</p>	Member of the public	None – those who do not feel comfortable to have people knocking on their door may display a no cold callers sign. It is not proportionate to stop all house to house collections in the district.
10	<p><b>Introduction</b></p> <p>Clothes Aid (Services) Limited is a social business which collect goods door-to-door to raise money for a range of UK charities including the NSPCC, Macmillan Cancer Support, Make-A-Wish Foundation UK, Zoë’s Place Baby Hospice and two Scotland partners.</p> <p>Households across the UK are asked to give clothes, fashion accessories and other goods which are weighed and then sold in shops in nearby countries. After costs are covered, the profit is shared with our charity partners. The collection arrangements are governed by detailed Commercial Participator Agreements and require zero investment from the charity. To date Clothes Aid have passed on over £10 million of unrestricted funds to UK charities.</p> <p>Clothes Aid only makes door-to-door and other bespoke arrangements for collections of goods and not direct debit, cash collections or street collections, therefore this submission only relates to door-to-door collections</p>	Collection company	<p>Applications will be dealt with on a case by case basis. Having considered the relevant national guidance documents and Cabinet Office information on how they would deal with appeals the limits are now expressed as guidelines and in respect of the net proceeds. The relevant officer will then apply professional judgement to whether a licence should be granted. Wording amended at para 8.7</p> <p>No changes will be made in light of the General Guidance on the Operation of the National Exemption – the policy will be reviewed at a later date if necessary.</p>



Consultation Response	Category of responder	Resulting change to policy
<p>of goods.</p> <p>Clothes Aid itself makes applications to 403 local authorities for house-to-house permits to collect. The number of single permits granted numbers in the many hundreds with a further similar amount of notifications of collection for our exemption holder charity partners (following best practice guidance).</p> <p>The current licensing process requires a substantial resource to enable our operations to function. These include operational planning, making the actual application using the proscribed form, applying for certificates of authority (HMSO Green Badges), issuing permits to collectors and preparing return statements of accounts for each of the 1permits and also reporting to the exemption holder. The resource was estimated at between £100,000 and £150,000. Licensing procedure is labour intensive and reduces the amount that can be paid in Royalty to the charity.</p> <p>Our exemption order charities receive a higher rate per tonne because of this single fact. Once the costs of collection are met, our partners realise between 84-94% of the profit.</p> <p><b>Clothes Aid submission to the consultation</b></p> <p>A very significant piece of work on licensing was undertaken by the National Association of Licensing Enforcement Officers of which contains their opinion on the relevance of using percentages when considering applications.</p> <p>See here for NALEO's guidance <a href="http://bit.ly/2fU11Hi">http://bit.ly/2fU11Hi</a> An extract is below:</p> <p><i>5.1 In the case of door to door collections and Cabinet Office advice that each case must be considered on its own merit, setting an arbitrary minimum percentage of the total value of the goods going to the charity is problematic. For reasons explained in paragraphs 5.2 to 5.6, such figures usually bear no resemblance to the amount of proceeds raised for the actual charitable purpose. At the point at which the goods have been collected, it is unlikely that the value of the proceeds generated for charitable purpose will</i></p>		<p>Thank you for the Enforcement offer – I will pass this on to our Enforcement team.</p>

	Consultation Response	Category of responder	Resulting change to policy
	<p><i>be much more than 20%, whoever has undertaken the collection.</i></p> <p><i>5.2 Typically, the cost of collecting door to door is substantial compared to the actual value of the goods at its point of collection. However, there is still some scope for efficient charitable door to door collections to raise substantial sums of money for charity, albeit on relatively small profit margins per tonne of goods collected.</i></p> <p><i>5.3 Where the collection is undertaken by a commercial third party, the charity is guaranteed an income (usually based on a per tonne basis), even if it turns out the commercial partner's collect costs are more than the revenue gained through the value of the goods collected. If the charity undertakes its own collection it is likely to raise more per tonne but incurs more risk.</i></p> <p><i>5.4 Published accounts indicate that around 80% of all revenue generated by a charity's trading subsidiary is ploughed back into the running of the trading arm. So even if the trading arm passes all its profits onto its affiliated charity, it usually means that around 20% of the total revenue generated goes for charitable purpose. In any case, the process of adding value by sorting donated goods and passing them through charity shops or sending for export, is a separate activity from the door to door collection, and is not covered by the 1939 House to House Collections Act. See special note in Appendix 1.</i></p> <p>The Institute of Fundraising <b>House to House Clothing Collections Guidance</b> also confirms that in their opinion it is the actual net profit that the charity receives for each tonne collected and the weight of clothing that can be collected and processed which is of key importance to a charity. <a href="http://bit.ly/2fTTHeY">http://bit.ly/2fTTHeY</a></p> <p>We ask not least in lieu of Clause 2., that Selby Council are also mindful of the outcome of the 2010 judicial review decision relating to a license refusal under the House to House Act 1939. Involving Birmingham Council, the Minister for the Cabinet Office and Clothes Aid the Minister accepted he</p>		

	Consultation Response	Category of responder	Resulting change to policy
	<p>made an error of law when considering the appeal and that a full merit assessment of Clothes Aid's licence application should have been carried out.</p> <p>Therefore, in light of these three points above, Clothes Aid would reject Clause 8.7 in its current form and ask that Selby reconsider in light of both NALEO and the Institute of Fundraising's respective guidance and the judicial review outcome.</p> <p>Further, as you are no doubt aware, General Guidance on the Operation of the National Exemption Order Scheme is currently under review by the government. It is imminent but new guidance has not yet been published by the Parliamentary Secretary (Minister for Civil Society) in the Office for Civil Society. Clothes Aid are concerned regarding any references or guidance on Exemption Orders in your policy and would advise caution in agreeing a policy that could be either complimentary or contradictory to the final guidance once it is published. We urge a delay in agreeing this policy until the final guidance is published as it may also impact upon Exemption Orders and House to House collections Act interpretation generally.</p> <p>You may also be wish to consult WRAP's Textile Collection Guidance for Local Authorities which has some useful information and may help in rounding out the policy. <a href="http://bit.ly/2f3pJqh">http://bit.ly/2f3pJqh</a></p> <p>We welcome Clause 11 on enforcement but our experience is that despite unlicensed collections being a criminal matter they are prolific in some areas and enforcement is virtually none existent. Many local authorities have stated their lack of resources to enforce licensing. We would like to congratulate Selby Council on taking a robust stance on enforcement and look forward to seeing a crackdown on unlicensed collections. Clothes Aid's Collection Protection team has vast experience in tackling bogus collectors and theft of charity donations; they contributed centrally to the Trading Standards Institute Enforcement Toolkit and spent time on secondment with City of London Police Charity Fraud Resource Des. The team would be</p>		

	Consultation Response	Category of responder	Resulting change to policy
	happy to consider working alongside the council in tackling poor standards and licensing infringements.		
11	<p>I am Director of the Textile Recycling Association which is the national trade association for collectors, graders and exporters of used clothing and textiles. Our members range from small family run businesses through to the UK trading arms of some of the world's biggest charities. We are in a strong position to give unbiased advice on the relative merits of different forms of charitable collections through clothing collections, as it is important for us to promote the interests of all our members.</p> <p>I have been made aware of <u><a href="#">your consultation</a></u> which I understand is closing today. I welcome the opportunity to provide you with a response.</p> <p>As is pointed out in the document, there have been issues with door to door clothing collections, many of which purport to be charitable and we appreciate the desire of local licensing authorities to try and ensure that only legitimate collectors operate in their area and do so in manageable numbers. It is nobody interests to have multiple numbers of clothing collectors operating in an area within a short period of time. So we welcome the implementation of sensible and pragmatic licensing policies for charitable door to door clothing collections.</p> <p>I would like to draw your attention to some guidance which we helped the National Association of Licensing and Enforcement Officers (NALEO) to draw up back in 2011 (<u><a href="#">click here</a></u>). The guidance is there to help local authority licensing departments and their officers comply with the legal licensing regime. <b>In essence, if a department's policies and an individual licensing officer's decisions comply with this guidance then they should be complying with the law.</b></p> <p>Other agencies involved in drawing up the guidance included the Institute of Fundraising, the Fundraising Standards Board, Charity Retail Association and other leading door to door collectors Clothes Aid, and I&amp;G Cohen (who have subsequently withdrawn from this form of collection). In addition, the</p>	Collection company	<p>Applications will be dealt with on a case by case basis as above.</p> <p>Ministerial changes are noted, the policy simply states 'Cabinet Minister' in line with legislation, so no change necessary.</p>

Consultation Response	Category of responder	Resulting change to policy
<p>guidance was drawn up in consultation with the Office for Civil Society who sanctioned the information which relates to their positions. In other words the guidance was drawn up agencies from across the local authority licensing sector, charitable fundraising and used clothing collection supply chain and who are representative of all legitimate stakeholders in this issue.</p> <p>In particular, I would like to draw your attention to the Office for Civil Society's position on how they would consider appeals against decisions to refuse a licence to undertake a charitable clothing collection (Appendix 4, page 18). The rub of it is that if a licensing authority refuses a licence because they deem that the amount going for charitable purpose is too low and yet that collector is paying the charity a competitive market price and other licensing authorities in the same area are issuing licences, then any appeal made to the Office for Civil Society by the collector will probably be successful.</p> <p>In the last few weeks I have contacted the Office for Civil Society's to see if their stated position remains true and I can confirm that this is the case. You may also wish to note that the administration for the Office for Civil Society will be moving from the Cabinet Office to the Department for Culture Media and Sports. So when this happens appeals will need to be made to the relevant Minister at Department for Culture Media and Sports.</p> <p>Some licensing authorities confuse issues such as the total amount of money received by a charities fundraising arm with the amount being applied for charitable purpose. Others do not consider the high costs of collections which should be deducted before one considers any level of remuneration applied to collectors and amounts going to charitable purposes. The issues are quite complex and difficult to capture in a short response but if you read the NALEO guidance, the issues are explained there and hopefully once you have read this things will be clearer.</p> <p>In addition you might find the guidance on our website about the relative merits of the different forms of charitable clothing collections helpful (<a href="#">click</a></p>		

	Consultation Response	Category of responder	Resulting change to policy
	<p><u>here</u>).</p> <p>One thing to bear in mind is that even if a licensing authority imposes a strict regime, it does not prevent bogus charity collectors from operating in an area. This is because bogus charity collectors do not bother with licenses. Enforcement of a strict licensing regime only restricts opportunities for those collectors trying to act within the law. To tackle bogus collectors a concerted effort is needed to catch the perpetrators red handed and enlist the support of police and organisations such as trading standards and the advertising standards authority.</p> <p>Finally, there is a lot of misguided information about charitable door to door clothing collections on the internet. On our website we have attempted to cut through all the noise and present the facts in an open and transparent manner. If you have concerns about the veracity of other sources of information, I would be happy to discuss these with you. Generally speaking though if the information is on the website of a recognised industry body the information is likely to be accurate.</p>		
12	<p>In respect of your consultation over the Charitable Collections Policy, having reviewed this on behalf of North Yorkshire Police please see the below feedback:</p> <p>7.9 - As well as national exemptions, the police can issue a certificate of exemption granted on the grounds that the purpose of the collection is local in character and the collection is likely to be completed in a short period of time (less than 2 weeks). Would it be possible to include this exemption in the policy? Further information available here: <a href="https://northyorkshire.police.uk/what-we-do/licensing/house-to-house/">https://northyorkshire.police.uk/what-we-do/licensing/house-to-house/</a></p> <p>9.5 – Do the council need to be notified of any exemption certificates we issue? If not, this section will need updating to state ‘with the exception of exemption certificates issued by the police’.</p> <p>Police issued exemption certificates do not require the applicant to have a</p>	Police	<p>Additional exemption added (para 7.10) to reflect Police licences.</p> <p>We would welcome knowing about Police exemptions – and this has been reflected in 9.5.</p> <p>A link to the Police webpage on their exemption certificates has been included to give residents further information about them.</p> <p>Pedlars are beyond the scope of this Policy</p>

	Consultation Response	Category of responder	Resulting change to policy
	<p>certificate of authority, a badge or named collection boxes / receipt books – not sure if this also needs to be included?</p> <p>I'm not sure whether this is relevant but we will also issue Pedlars Certificates for people looking to trade whilst on foot (house to house, place to place). Further information is available here: <a href="https://northyorkshire.police.uk/what-we-do/licensing/pedlars-application/">https://northyorkshire.police.uk/what-we-do/licensing/pedlars-application/</a></p> <p>Thanks for giving us the opportunity to feed in to your policy review.</p>		
13	<p>Thank you for giving us sight of your draft charitable collections policy and the opportunity to respond to it.</p> <p>In responding to your document I have made reference to 'The Cold calling Control Zones Handbook' issued by the Chartered Trading Standards Institute and published on their website <a href="http://www.tradingstandards.uk/policy/doorstopperswelcome.cfm">http://www.tradingstandards.uk/policy/doorstopperswelcome.cfm</a></p> <p>I note there is reference in your document to any requirement that charities who apply to yourselves for a licence should/must be registered with the Charity Commission (para 8.6). In that respect I urge greater scrutiny of those applications made where the charity is not so registered. The fact that a charity is registered will give assurances to the community that this is a bone fide charity however I am aware there may be circumstances where a small local charity is formed for a specific purpose and therefore your policy could be written to reflect this.</p> <p>I believe greater scrutiny needs to be given to those who apply for such a licence. Criminals will often use doorstep calling as an opportunity to commit rime such as distraction burglaries or indicating whether the premises is currently occupied and therefore an application should be refused if 'the promoter or any other person involved in the collection has been convicted of certain criminal offences such as burglary, blackmail or fraud';(guidance – Hambleton District Council)</p> <p>There are currently 107 No Cold calling Zones in Selby District. Whereas such zones are not legally enforceable (i.e. there is not a specific offence of</p>	Trading Standards	<p>Para 8.6 has been amended to reflect we will accept small local charity applications who are not registered with the commission, but further scrutiny will be required.</p> <p>Wording to the same effect of Hambleton District Council is already contained at para 8.7(d) of the policy</p> <p>Para 8.9 already added to prevent collections in no cold calling zones.</p> <p>Para 8.8 added to reflect the changes proposed to 8.7.</p> <p>Amendments to para 10 and 14 of appendix 2 accepted in full.</p>

	Consultation Response	Category of responder	Resulting change to policy
	<p>calling in a no cold calling zone), these are areas where residents have specifically requested that they do not wish to be 'cold called' by uninvited callers. Although the guidance does not specifically apply to charities or religious groups, feedback from residents indicate they do not distinguish between traders and other types of callers. These zones are clearly marked with signs on lampposts at the entrance to zones, and residents are issued with a sticker for their front door advising callers they do not wish to be cold called. I would recommend your guidance reflects this fact and advises charities of the need to recognise the wishes of local residents.</p> <p>In relation to specifics within your proposed guidance, I would suggest the following paragraphs are amended</p> <p>8.7. We can refuse or revoke a licence for a number of reasons (more specifically set out in the 1939 Act). We may refuse to grant a licence or, where a licence has been issued, may revoke a licence if:</p> <p>Complaints are received directly or via a third party as to the conduct and or collection methods of the charity in question</p> <p>10. Collectors <del>should</del> <u>must</u> not harass, pressurise or mislead members of the public.</p> <p>14. I.D. <del>should</del> <u>must</u> always be worn for verification purposes.</p>		



# Selby District Council

## REPORT

Reference: E/16/36

Public



**To:** The Executive  
**Date:** 5 January 2017  
**Status:** Non Key Decision  
**Report Published:** 23 December 2016  
**Author:** Chris Watson, Assistant Policy Officer  
**Executive Member:** Councillor Richard Musgrave, Lead Executive Member for Housing, Leisure, Health and Culture  
**Lead Officer:** Gill Marshall, Solicitor to the Council

**Title:** Gambling Policy Refresh

### Summary:

Selby District Council is the Licensing Authority responsible for the licensing of certain Gambling Premises Licences (e.g. adult gaming centres and betting shops) and all types of gaming machine permits in Selby District. As part of this role the Council must have regard to the statutory licensing objectives and issue a statement of licensing principles (the Gambling Policy) which must be reviewed every 3 years. The existing policy requires a review which also gives an opportunity to bring it into line with the latest (5<sup>th</sup>) edition of the Gambling Commission guidance and the Licence Conditions and Codes of Practice. If approved, the policy will be consulted on from 20 January 2017 to 14 March 2017. Consultation will be wide, including those consultees required by the Gambling Act 2005 and others, including the Licensing Committee and the Policy Review Committee.

### Recommendations:

- i. **To approve the draft Gambling Policy (Statement of Principles) for public consultation.**

### Reasons for recommendation

To obtain the views of key stakeholders and the public on the draft Policy.

## **1. Introduction and background**

- 1.1 The Gambling Act 2005 ('the Act') established the Gambling Commission ('the Commission'), a non-departmental public body who advise both central and local government on issues relating to gambling. The Commission issues new operating licences and personal licences required by the Act.
- 1.2 Once these licences are obtained from the Commission, an application must then be made to Selby District Council, as the Licensing Authority, for a premises licence and associated permissions to trade.
- 1.3 As the Licensing Authority the Council is responsible for issuing premises licences for the following:
  - Casino Premises
  - Bingo Premises
  - Adult Gaming Centre Premises
  - Family Entertainment Centre Premises
  - Betting Premises
- 1.4 The Act also passes responsibility to the Council for the granting of all types of gaming machine permits and alters the manner in which certain categories of lotteries are registered and controlled.
- 1.5 In exercising functions under the Act, the Council must have regard to the Licensing Objectives, which are distinct and different from those contained under the Licensing Act 2003. They are:
  - Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.6 The Council has a duty which it must discharge under s349 of the Act. The Council is required to formulate a Gambling Policy (Statement of Principles) that it proposes to apply in exercising its functions under the Act.
- 1.7 The Commission is required by s25 of the Act to issue guidance to licensing authorities on the discharge of their functions under the Act. It deals primarily with matters intended to assist in the development of a licensing authority's Gambling Policy and is something the Council must have due regard to. The Commission's guidance was most recently updated in September 2016.

## **2. The Report**

- 2.1 The Gambling Policy (Statement of Principles) must be reviewed at least every three years, and the current policy comes to an end subject to the draft being approved by Full Council in April 2017.

- 2.2 The draft policy has been written to reflect the latest (5<sup>th</sup>) edition of the Gambling Commission Guidance to Local Authorities which was last updated September 2016. It also includes the Licence Conditions and Codes of Practice. From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks.
- 2.3 The draft policy also includes the Registration of Small Society Lotteries for the first time (para. 33 of the policy). This is not a statutory requirement, but has been noted as best practice following a benchmarking exercise.
- 2.4 If approved, consultation will take place on the new Policy from 20 January 2017 – 14 March 2017.
- 2.5 The Act requires the Authority to consult with various groups before policy is determined. These include:
- The Chief Officer of North Yorkshire Police covering Selby District
  - The Responsible Authorities as defined by the Gambling Act 2005
  - "Interested Parties" as defined by the Gambling Act 2005
  - HM Revenue & Customs
  - Fire Authority
  - Child Protection Services
  - One or more persons who represent the interests of gambling businesses in Selby District
  - One or more persons who appear to represent the interests of persons who are likely to be affected by the implementation of the Act
- 2.6 In addition to the above statutory consultees, to enable the broadest range of people and organisations the opportunity to respond we will also directly consult with:
- The general public
  - All Selby District Councillors
  - All Parish Councils within Selby District
  - Premises licence holders who hold a permission issued under the Gambling Act 2005
  - Licensing Committee (6 February 2017)
  - Policy Review Committee (14 March 2017)
- 2.7 Copies of the draft policy will be made available online and in the Customer Contact Centre.
- 2.8 All consultation responses will be considered and where appropriate the draft policy will be amended accordingly.

- 2.9 The policy is scheduled to be presented for endorsement to Executive on 6 April 2017 before seeking final approval at Full Council on 25 April 2017 and coming into force shortly afterwards (subject to approval).

### **3. Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

- 3.1 The review of the Gambling Policy (Statement of Principles) is a legislative requirement. Legislation requires that the final approval for the new Gambling Policy (Statement of Principles) is given by Full Council. Failure to review the policy and follow correct guidance will leave decisions on gambling licensing open to challenge.
- 3.2 The approval of the policy is part of the Budget and Policy Framework of the Council and therefore the Executive is responsible for proposing and consulting on the policy whereas the approval of it must be undertaken by full Council.

#### **Financial Issues**

- 3.3 This policy proposes no significant changes to the running of the service; therefore, no risk is identified.

#### **Other Policy Matters**

- 3.4 An Equality, Diversity and Community Impact Screening ('EDCI') has been completed for the draft policy. The EDCI did not highlight any significant impacts; therefore a further assessment has not been carried out.

### **4. Conclusion**

- 4.1 The draft policy has been developed to ensure the Council's Gambling Policy (Statement of Licensing Principles) remains best practice and compliant with the requirements of the Gambling Act 2005 and Gambling Commission's Guidance for Local Authorities.
- 4.2 Officers are seeking approval to consult to gather the views of the public and key stakeholders of the draft policy.
- 4.3 A further report will be brought back to the Executive on 6 April 2017, detailing the outcome of the consultation and seeking endorsement of the policy before seeking final approval from Full Council on 25 April 2017.

### **5. Background Documents**

*Equality Diversity and Community Impact Screening Document.*

**Contact Officer:**

*Chris Watson  
Assistant Policy Officer  
cwatson@Selby.gov.uk*

*Gill Marshall  
Solicitor to the Council  
gmarshall@selby.gov.uk*

**Appendices:**

Appendix A – draft Gambling Policy (Statement of Principles)



# Gambling Policy

Gambling Act 2005

Statement of Principles





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## PART A

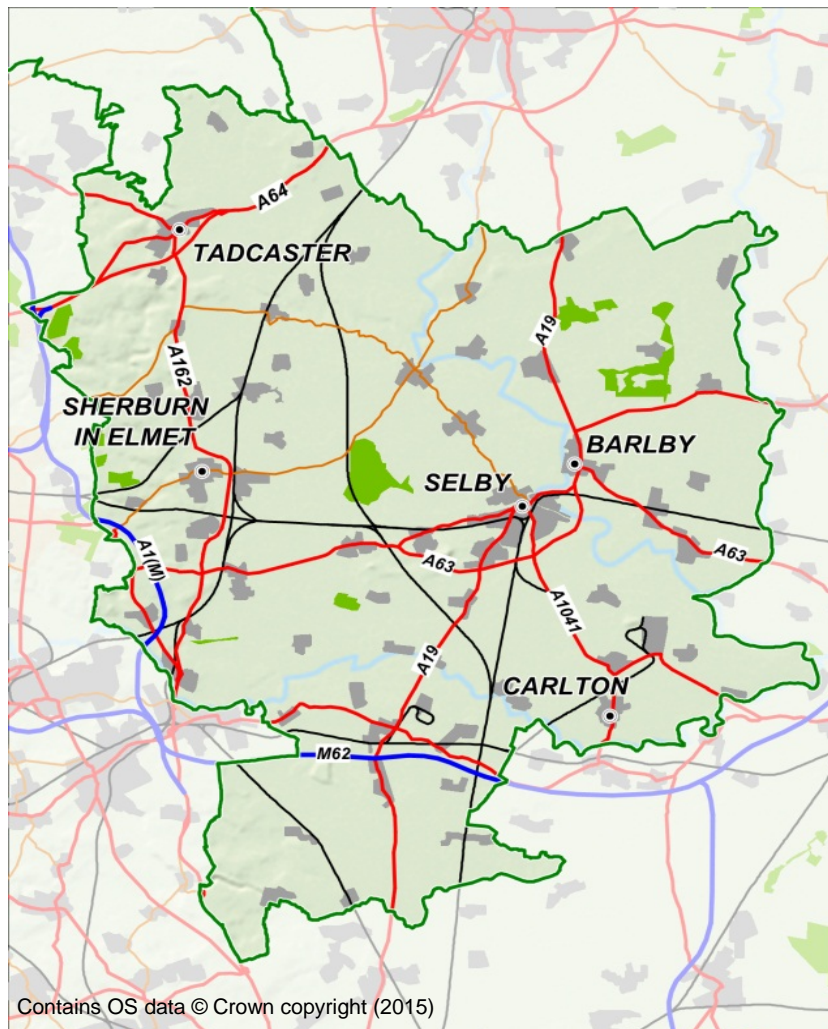
### 1. Introduction

- 1.1 Section 349 of the Gambling Act 2005 ('the Act') requires us (Selby District Council) as a Licensing Authority in England and Wales to define and publish our Policy Statement on the exercise of our gambling functions at least every three years.
- 1.2 We will review our statement from "time to time" and consult upon any amended parts to the statement. We will then re-publish the amended statement.
- 1.3 In exercising most of our functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.3 We have noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".
- 1.4 We have noted that, as per section 153 of the Act, in making decisions about premises licences and temporary use notices we should aim to permit the use of premises for gambling in so far as we think it is:
  - in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority's Statement of Principles
- 1.5 The Act requires that we consult with the following parties:
  - The Chief Officer of Police
  - One or more persons who appear to us to represent the interests of persons carrying on gambling businesses in our area
  - One or more persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of the our functions under the Gambling Act 2005
- 1.6 We have consulted widely on this policy statement from [insert start date] to [insert end date]. A list of persons consulted can be found at Appendix A.
- 1.7 There were [insert number] comments received in response to this consultation.
- 1.8 This statement of Principles was approved at a meeting of the Full Council on [insert date]. This is published on our website ([www.selby.gov.uk](http://www.selby.gov.uk)). In addition, copies are placed in the public libraries of the area as well as being available in our customer contact centre.

- 1.9 It should be noted that this Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

## 2. Profile of Selby District

- 2.1 Selby District is situated in the County of North Yorkshire. It covers an area of 602 square kilometres and is situated to the south of the city of York. The district's population is 86,000<sup>1</sup> and the principal settlements are Selby, Tadcaster and Sherburn-in-Elmet. The council area is mainly rural in character and aspect with a dispersed settlement plan. There are 74 Parish Councils as well as various Parish and Community meetings. Selby in particular is of historical importance built as it is around Selby Abbey. As a consequence tourism and leisure are important industries. Detail of the district is shown in the map below.



<sup>1</sup> ONS Mid-Year Estimates 2015

### 3. Declaration

- 3.1 In producing this Statement of Principles, we have given regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission, and any responses from those consulted on the Statement of Principles.

### 4. Responsible Authorities

- 4.1 We are required by regulations to state the principles we will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 4.2 In accordance with the Gambling Commission's Guidance for local authorities this authority designates Corporate Director of Adult Community Services, North Yorkshire County Council, Room 122 County Hall, Racecourse Lane, Northallerton, North Yorkshire, DL7 8DD for this purpose.
- 4.3 The contact details of the Responsible Authorities under the Act can be found at Appendix A and on our website [www.selby.gov.uk](http://www.selby.gov.uk):

### 5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

*“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-*

- a) lives sufficiently close to the premises to be likely to be affected by the authorities activities,*
- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraph (a) or (b)”*

- 5.2 We are required by regulations to state the principles we will apply in exercising our powers under the Act to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. We will not apply a rigid rule to our decision making. We will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at 8.12 to 8.17. Note though that decisions on premises and temporary use notices must be “in accordance” with Gambling Commission Guidance (Section 153 of the Act). We will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, we will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing team at:

**Licensing**  
 Selby District Council  
 Civic Centre  
 Doncaster Road  
 Selby  
 YO8 9FT  
[licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)

01757 705101

## **6. Exchange of Information**

- 6.1 We are required to include in our policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that we apply is that we will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

- 7.1 We are required by regulation under the Act to state the principles we will apply to exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the

powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

## 7.2 Our principles are that:

We will be guided by the Gambling Commission's Guidance for local authorities. We will endeavour to be:

- **Proportionate:** regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- **Consistent:** rules and standards must be joined up and implemented fairly;
- **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
- **Targeted:** regulation should be focused on the problem, and minimise side effects.

## 7.3 As per the Gambling Commission's Guidance for local authorities we will endeavour to avoid duplication with other regulatory regimes so far as possible.

## 7.4 We have adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this Statement of Licensing Principles

## 7.5 Our main enforcement and compliance role in terms of the Act will be to ensure compliance with the premises licences and other permissions which we authorise. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that we will not deal with concerns about manufacture, supply or repair of gaming machines but these concerns will be notified to the Gambling Commission.

## 7.6 We will also keep ourselves informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## 7.7 Bearing in mind the principle of transparency, our Corporate Enforcement Policy is available upon request from the licensing team (see details on page 7) or online at: <http://www.selby.gov.uk/enforcement-policy>.

# 8. Licensing Authority functions

## 8.1 As the Licensing Authority we are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits

- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on ‘information exchange’)
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

## **PART B**

# **PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

### **9. General Principles**

- 9.1 Premises Licences will be subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### **Decision-making**

- 9.2 We are aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing policy (which is available to view at the following webpage: <http://www.selby.gov.uk/licensing-policies>)
- 9.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for us.

### **10. Definition of “premises”**

- 10.1 In the Act “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 10.2 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: “in most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Gambling Commission does not consider that areas of a building that are artificially or

temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

10.3 We take particular note of the Gambling Commission’s Guidance to Local Authorities which states that: Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from being in close proximity to gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

10.4 The Guidance also gives a list of factors which we should be aware of when considering if two or more proposed premises are truly separate, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

10.5 We will consider these and other relevant factors in making decision, depending on all the circumstances of the case.

10.6 **The Gambling Commission’s relevant access provisions (as defined at 7.23 of the Guidance) for each premises type are reproduced below:**

<b>Type of premises</b>	<b>Access Provisions</b>
Casinos	<ul style="list-style-type: none"> <li>• The principal access entrance to the premises must be from a street</li> <li>• No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons</li> <li>• No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence</li> </ul>
Adult Gaming Centre	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from any other licensed gambling premises</li> </ul>
Betting Shops	<ul style="list-style-type: none"> <li>• Access must be from a street or from another premises with a betting premises licence</li> <li>• No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect</li> </ul>



	there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.
Tracks	<ul style="list-style-type: none"> <li>• No customer should be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino, or</li> <li>- an adult gaming centre</li> </ul> </li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino</li> <li>- an adult gaming centre, or</li> <li>- a betting premises, other than a track</li> </ul> </li> </ul>
Family Entertainment Centre	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino</li> <li>- an adult gaming centre, or</li> <li>- a betting premises, other than a track</li> </ul> </li> </ul>

10.7 Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which we will also take into account in our decision-making.

## 11. Premises “ready for gambling”

11.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied is going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

11.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

11.3 In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at premises, this authority will determine applications on their merits, applying a two stage consideration process:

- **Stage 1:** whether the premises ought to be permitted to be used for gambling
- **Stage 2:** whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

11.4 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

11.5 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

## **12. Location:**

12.1 We are aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives are relevant to our decision-making. As per the Gambling Commission's Guidance to Local Authorities, we will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated.

12.2 We will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives before refusing. From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

12.3 The LCCP say that licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in this policy statement;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

12.4 We expect the local risk assessment to consider as a minimum:

- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder.

12.5 Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

12.6 It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

## **13. Duplication with other regulatory regimes:**

13.1 We will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. We will not consider whether a licence application is likely to

be awarded planning or building approval, in our consideration of it. We will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

- 13.2 When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning controls, buildings and other regulations and must not form part of the consideration for the premises licence.

## **14. Licensing objectives**

- 14.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, we have considered the Gambling Commission's Guidance to Local Authorities:

14.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

We are aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. We are aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

14.3 **Ensuring that gambling is conducted in a fair and open way**

We note that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences (but, if such concerns come to our notice we will forward them to the Commission). There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

14.4 **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

We have noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). We will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

14.5 We will also make ourselves aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific types of premises.

14.6 As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people gambling beyond their means; and
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

14.7 We will consider this licensing objective on a case by case basis.

## **15. Conditions**

15.1 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

15.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures we will consider utilising should there be a perceived need, such as:

- the use of door supervisors;
- supervision of adult gaming machines; and
- appropriate signage for adult only areas etc.

15.3 There are specific comments made in this regard under some of the licence types below. We will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

15.4 We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

15.5 We will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

15.6 These considerations will apply to premises including buildings where multiple premises licences are applicable.

15.7 It is noted that there are conditions which we cannot attach to premises licences these are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

## **16. Door Supervisors**

16.1 The Gambling Commission advises in its Guidance to Licensing Authorities that if we are concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

16.2 It is noted that the door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Act 2001. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a Disclosure and Barring Service check on potential staff and for such personnel to have attended industry recognised training. Door supervisors not directly employed by a casino or bingo operator do have to be SIA registered.

## **17. Adult Gaming Centres**

17.1 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

17.2 We may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes

- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive.

## **18. (Licensed) Family Entertainment Centres**

- 18.1 Licensed Family Entertainment Centres (FECs) are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section for adult only 17 gaming machines with higher stakes and prizes. Licensed FECs will be able to make available unlimited category C and D machines where there is a clear segregation in place so children do not access the areas where the category C machines are located.
- 18.2 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 18.3 We may consider measures to meet the licensing objectives such as:
- CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare.
  - Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive.

- 18.4 We will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. We will also make ourselves aware of any mandatory or default conditions on these premises licences.

## **19. Casinos**

- 19.1 *No Casinos resolution* – We have not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but we are aware that we have the power to do so. Should we decide in the future to pass such a resolution, we will update this Statement of Principles with details of that resolution. Any such decision will be made by the Full Council.
- 19.2 *Licence considerations / conditions* – We will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed at paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

## 20. Bingo premises

- 20.1 We note that the Gambling Commission's Guidance states:
- 20.2 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.
- 20.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## 21. Betting premises

- 21.1 *Betting machines* - Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises, we will, amongst other things, take into account:
- the size of the premises;
  - the number of counter positions available for person-to-person transactions; and
  - the ability of staff to monitor the use of the machines by vulnerable persons
- 21.2 Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the control measures related to the protection of vulnerable persons.
- 21.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commission's Codes of Practice or by the applicant we may consider licence conditions to address such issues.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-baring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive.

## 22. Tracks

- 22.1 Tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operating licence as there may be several premises licence holders at the track which will need to hold their own operating licences.
- 22.2 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

We may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive.

- 22.3 *Gaming machines* – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 22.4 *Betting machines* – We have a power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. In relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted.
- 22.5 Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. We will consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.
- 22.6 We take the view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This



would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

**22.7 Condition on rules being displayed** - This authority will consider whether to attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

**22.8 Applications and plans** – The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that we have the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for us to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.28).

**22.9** Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations (See Guidance to Licensing Authorities 20.29).

**22.10** Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities 20.31).

**22.11** In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the premises boundaries do not need to be defined (See Guidance to Licensing Authorities, paragraphs 20.32).

**22.12** We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

## **23. Travelling Fairs**

**23.1** We are responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

23.2 We will also consider whether the applicant falls within the statutory definition of a travelling fair.

23.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. We will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **24. Provisional Statements**

24.1 Developers may wish to apply to us for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

24.2 Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered; or
- expects to acquire a right to occupy

24.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

24.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

24.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. We will be constrained in the matters we can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances

24.6 In addition to this, we may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;

- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and we note that it can discuss any concerns it has with the applicant before making a decision.

## 25. Reviews

- 25.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us, as the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with this Gambling Act 2005 - Statement of Principles.
- 25.2 The request for the review will also be subject to our consideration as to whether the request is frivolous, vexatious, or whether it will certainly not cause us to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 25.3 We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 25.4 Once we have received a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will publish notice of the application within 7 days of receipt.
- 25.5 We must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 25.6 The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, the options open to us are to:-
- (a) add, remove or amend a licence condition we impose;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence
- 25.7 In determining what action, if any, should be taken following a review, we must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

25.8 In particular, we may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

25.9 Once the review has been completed, we must, as soon as possible, notify our decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART C

### Permits / Temporary & Occasional Use Notice

#### 26. Unlicensed Family Entertainment Centre gaming machine permits

- 26.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to us for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of the Act).
- 26.2 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act.
- 26.3 S24.9 of the Guidance also states: “An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application” Licensing Authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 26.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 26.5 **Statement of Principles:** We expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits. However, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. We also expect (as per Gambling Commission Guidance), that applicants demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.

#### 27. (Alcohol) Licensed premises gaming machine permits

- 27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The

premises merely need to notify us, as the licensing authority. We can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

27.2 **Permit: 3 or more machines-** If a premises wishes to have more than 2 machines, then it needs to apply for a permit and we must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as [we] think relevant.*”

27.3 We consider that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff, who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

27.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

27.5 It should be noted that we can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

27.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## 28. Prize Gaming Permits

28.1 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

28.2 We have prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- clear policies that outline the steps to be taken to protect children from harm.

- 28.3 In making our decision on an application for this permit we do not need (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 28.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but to which we cannot attach conditions.

The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **29. Club Gaming and Club Machines Permits**

- 29.1 Members Clubs and Miners' welfare institutes may apply for a Club Gaming Permit or a Club Gaming Machines Permit. A Commercial Club may only apply for a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set out in regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D). Only one category B3A machine can be sited as part of this entitlement.
- 29.2 Gambling Commission Guidance for licensing authorities states: "Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include; working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 29.3 Before granting the permit we will need to be satisfied that the premises meet the requirements of a members' club and we may grant the permit only if the majority of members are over 18 years old.
- 29.4 We are aware that we may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 29.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Gambling Act 2005 (Schedule 12 paragraph 10). Under the

fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced.

- 29.6 The grounds on which an application under the process may be refused are that:
- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years have been cancelled."
- 29.7 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **30. Temporary Use Notices**

- 30.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for Temporary Use Notices, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 30.2 We can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino operating licence.
- 30.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 30.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 30.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 30.6 We expect to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **31. Occasional Use Notices:**

- 31.1 The Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full premises licence.



31.2 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will, however, consider the definition of a 'track' and whether the applicant is permitted to benefit him/herself of the notice.

## **32. Registration of Small Society Lotteries**

32.1 We will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of an operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

32.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting athletic or cultural activities.

## Appendix A – Responsible Authorities

This list of Responsible Authorities is also available on our website [www.selby.gov.uk](http://www.selby.gov.uk)

### North Yorkshire Police

North Yorkshire Police Headquarters  
The Licensing Section  
Fulford Road  
York  
YO10 4BY  
[nylicensing@northyorkshire.pnn.police.uk](mailto:nylicensing@northyorkshire.pnn.police.uk)

### North Yorkshire Fire and Rescue Authority

Chief Fire Officer  
Fire Brigade Headquarters  
Crosby Road  
Northallerton  
North Yorkshire  
DL6 1AB  
[www.northyorksfire.gov.uk/contact-us](http://www.northyorksfire.gov.uk/contact-us)

### The Gambling Commission

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500

### Social Services

Strategy & Performance Officer  
Children & Young People's Service  
Room SB012  
County Hall,  
Racecourse Lane  
Northallerton  
DL8 7AE

### Lead Officer – Development Control

Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

### H M Revenue & Customs

National Registration Unit (Betting & Gaming)  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

Tel: 0141 555 3633

### The Licensing Officer

Selby Police Station  
Portholme Road  
Selby  
North Yorkshire  
YO8 4QQ

### Environmental Health

Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

### Solicitor to the Council

Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

### Health & Safety Section

Environmental Health Department  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

## Appendix B – List of Consultees

Complete list to be provided at full Executive

Indicative list:

<b>Statutory Consultees</b>	<b>Non-Statutory Consultees</b>
Police	All Selby District Councillors
Responsible authorities	All Parish Councils within the District
Interested Parties	Premises Licence Holders
HMRC	Licensing Committee
Fire Authority	Policy Review Committee
Child Protection Services	
Gambling Business Representatives	
People affected by the Act Representatives	

## Appendix C - Table of delegation of licensing functions

Matter to be dealt with	Full Council	Licensing Sub Committee	Officers
Application for premises licences		✓ Where representations have been received and not withdrawn	✓ Where no representations received / representations have been withdrawn
Application for a variation to a licence		✓ Where representations have been received and not withdrawn	✓ Where no representations received / representations have been withdrawn
Application for a transfer of a licence		✓ Where representations have been received from the Commission or responsible authority	✓ Where no representations received from the Commission or responsible authority
Review of a premises licence		✓	
Application for a provisional statement		✓ Where representations have been received and not withdrawn	✓ Where no representations received/representations have been withdrawn
Application for club gaming / club machine permits		✓ Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming / club machine permits		✓	
Applications for other permits		✓ Where the application is for 5 or more machines	✓ (except where there is a possibility of refusal or grant of a reduced number of gaming or betting machines)
Cancellation of licensed premises gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice		✓	

Matter to be dealt with	Full Council	Licensing Sub Committee	Officers
Determination as to whether a representation is frivolous, vexatious or repetitive		✓	
Fee Setting – when appropriate		✓	
Three year Gambling Policy	✓		
Policy not to permit casinos	✓		

✓ indicates the lowest level to which decisions can be delegated.

**NB. The Council reserves the right to amend this table of delegation**

## Appendix D – Categories of Gaming Machines

Section 236 of the Gambling Act 2005 provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C, and D, with category B further divided into sub-categories. The regulations define the classes according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver.

The following table shows the different categories of machine and the maximum stakes and prizes that currently apply.

Category of machine	Maximum stake (from Jan 2014)*	Maximum prize (from Jan 2014)*
A	No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – money prize (other than a coin pusher or penny falls machine)	10p	£5
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be prize money)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be prize money)

\* with the option of a maximum £20,000 linked progressive jackpot on a premises basis only.

# Selby District Council

## REPORT

Reference: E/16/37

Public



**To:** The Executive  
**Date:** 5 January 2017  
**Status:** Key Decision  
**Report Published:** 23 December 2016  
**Author:** Kevin Ross, Accountant  
**Executive Member:** Councillor Cliff Lunn – Lead Executive Member for Finance and Resources  
**Lead Officer:** Karen Iveson, Chief Finance Officer

**Title:** Housing Rents 2017/18

### Summary:

This report presents proposals for Housing Revenue Account rent levels in accordance with Central Government's current policy on rent setting. Registered providers are required to reduce rents by 1% per year for 4 years from April 2016. This action is intended to help protect taxpayers from the rising costs of subsidising rents through housing benefit, and protect tenants from rising housing costs.

This method replaced a revised model introduced from 1 April 2015 to replace rent restructuring. This method was planned to run for 10 years to 2024/25 and linked to CPI increases.

Year 2 of this 4 year policy will see rents decrease on average from £84.51 in 2016/17 to £83.77 (adjusted for sales & dwellings meeting target through relets) per week on a 48 week basis, an average decrease of £0.74.

### Recommendation:

- i. **The Executive approve the proposed 1.0% average rent decrease for 2017/18.**

### Reasons for recommendation

To allow rent levels to be set in advance of the coming financial year within the constraints of Government rent setting policy.

### 1. Introduction and background

- 1.1 Social housing rents are set according to the Governments rent policy. Following the Chancellor of the Exchequer's budget on 8 July 2015, the Welfare Reform and Work Act 2016 requires registered providers to reduce rents by 1% per year for 4 years from April 2016. 2017/18 rents will be the second year of rents set following this act. This move is intended to help protect taxpayers from the rising costs of subsidising rents through housing benefit, and protect tenants from rising housing costs.
- 1.2 To mitigate the impact on the HRA business plan (where larger rent increases had been anticipated) as part of self-financing, any new tenancies that had not converged with target (formula) rent are let at target, thereby the rent does not remain below target rent permanently. Target (formula) rents also reduce by 1% per year for the four years from April 2016. At this point in time 1,070 properties have not yet converged with target rent.

## 2. The Report

- 2.1 The 2016/17 weekly average rent, set on a 48 week basis is £84.51 (per Housing Rents report to Executive; 7 January 2016).
- 2.2 Actual and Formula rent increases are calculated using the previous year's rent, except those properties that relet at formula less 1%.
- 2.3 **Average Rent Charges on a 48 week basis**

Year	2017/18 Proposed decrease	2018/19	2019/20
<b>Actual Rent £</b>	83.77	82.93	82.10
<b>% decrease</b>	1.0	1.0	1.0
<b>Formula Rent £</b>	85.57	84.71	83.86
<b>% Decrease</b>	1.0	1.0	1.0
<b>Difference Actual vs. Formula £</b>	1.80	1.78	1.76

- 2.4 The above table shows the formula rent against the actual rent to be charged to tenants. Formula rent is the rent target for our dwellings to be comparable with Registered Social Landlords.
- 2.5 Formula rents on average for 2017/18 are £1.80 per week higher than actual rents on a 48 week basis.

## 3. Legal/Financial Controls and other Policy matters

### 3.1 Legal Issues

The 1% rent reduction was enacted as part of the Welfare Reform and Work Act 2016.

### 3.2 Financial Issues

The rent yield from the proposals in this report are summarised as follows:

	2016/17 (£000)	2017/18 (£000)	2018/19 (£000)	2019/20 (£000)
<b>Budgeted Rent (£k)</b>	12,199	12,070	11,920	11,760
<b>Annual Decrease (£k)</b>		129	150	160



Under the HRA self financing regime, the Council keeps all of the rent collected and no longer has to pay subsidy. The amount of debt the Council took on as part of this change was influenced by rent income projections based on formula rent convergence. Rent generated is utilised to service the debt incurred, invest in maintaining our housing stock and new build opportunities as well as cover the running costs of our Housing Revenue Account service. The HRA Revenue Budget has been drafted taking into account the reduction in rental income and our immediate investment needs can be covered although it will impact in the longer term. The 30 Year business plan will be updated to reflect this rent loss and will be reported to the Executive in due course.

### **3.3 Impact Assessment**

The rent reduction has a negative impact on the overall funding of the HRA, meaning that in the longer term there will be less resource for re-investment in our housing stock.. This is lost funding which will never be recovered to invest in the housing stock and development. In the shorter term, the HRA can meet its current revenue and capital commitments although this will require careful management of the HRA Capital Programme.

### **4. Conclusion**

Although rents generated cover the immediate commitments of the HRA including the capital programme, the rent reduction has an impact on the longer term by reducing the amount built up in reserves to reinvest in our current stock, build houses and the opportunity to repay debt earlier if required.

### **5. Background Documents**

None

#### **Contact Details**

Kevin Ross  
Accountant  
Selby District Council  
[kross@selby.gov.uk](mailto:kross@selby.gov.uk)