

A meeting of the above Committee will be held at the Town Hall, Royal Leamington Spa on Monday 19 July 2021, at **4:30pm** and available for the public to watch via the Warwick District Council [YouTube channel](#).

Councillor G Illingworth (Chairman)

Councillor P Redford (Vice-Chairman)

Councillor A Boad

Councillor G Cullinan

Councillor A Evans

Councillor C Gifford

Councillor J Grey

Councillor T Heath

Councillor V Leigh Hunt

Councillor M Luckhurst

Councillor M Mangat

Councillor D Norris

Councillor S Syson

Councillor T Wright

A Vacancy for the Green Group

### **Emergency Procedure**

At the commencement of the meeting, the emergency procedure for the Town Hall will be announced.

### **Agenda**

#### **1. Apologies & Substitutes**

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### **2. Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

#### **3. Minutes**

To confirm the minutes of the Committee meeting held on 5 May 2021

**(Pages 1 to 2)**

4. **Minutes of Licensing & Regulatory Panels**

To confirm the minutes of the Licensing & Regulatory Panels as set out below:

a) 29 April 2021

**(Pages 1 to 6)**

b) 3 June 2021

**(Pages 1 to 5)**

5. **Statutory Review of Gambling Policy – Request for public consultation**

To consider a report from Health and Community Protection

**(Pages 1 to 24)**

6. **Street Trading Policy Review – Request for public consultation**

To consider a report from Health and Community Protection

**(Pages 1 to 19)**

7. **Proposed House to House Collections Policy**

To consider a report from Health and Community Protection

**(Pages 1 to 25)**

8. **Proposed Street Collections Policy**

To consider a report from Health and Community Protection

**(Pages 1 to 23)**

9. **2023 Review of Parliamentary Constituencies**

To consider a report from Democratic Services

**(Pages 1 to 6 and  
Appendices 1 & 2)**

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For enquiries about specific reports, please contact the officers named in the reports.

You can e-mail the members of the Committee at [LandRCommittee@warwickdc.gov.uk](mailto:LandRCommittee@warwickdc.gov.uk)

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The agenda is available in large print on request,  
prior to the meeting, by telephoning (01926)  
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# Licensing and Regulatory Committee

Minutes of the remote meeting held on Wednesday 5 May 2021 at 4.30pm, which was broadcast live via the Council's YouTube Channel.

**Present:** Councillors Boad, Cullinan, Evans, C Gifford, Grey, Heath, Illingworth, Leigh-Hunt, Mangat, Norris, Redford, Syson and Wright.

## 1. **Apologies and Substitutes**

- (a) an apology for absence was received from Councillor Luckhurst; and
- (b) there were no substitutes.

## 2. **Appointment of Chairman of the Committee**

It was proposed by Councillor Heath, duly seconded and

**Resolved** that Councillor Illingworth be appointed Chairman of the Committee for the 2021/2022 municipal year.

## 3. **Appointment of Vice-Chairman of the Committee**

It was proposed by Councillor Illingworth, duly seconded and

**Resolved** that Councillor Redford be appointed Vice-Chairman of the Committee for the 2021/2022 municipal year.

## 4. **Declarations of Interest**

There were no declarations of interest.

## 5. **Minutes**

The minutes of the Committee meeting held on 13 April 2021 were taken as read and signed by the Chairman as a correct record.

## 6. **Appointment to Licensing & Regulatory Panels**

The Committee considered the proposals for membership of the Panels and

**Resolved** that

- (1) the membership of the Licensing & Regulatory Panels for the municipal year 2020/21, be

<b>Panel</b>	<b>Councillor</b>	<b>Councillor</b>	<b>Councillor</b>
<b>A</b>	Heath	Leigh-Hunt	C Gifford
<b>B</b>	Illingworth	Evans	Grey
<b>C</b>	Wright	Vacancy	Boad
<b>D</b>	Syson	Norris	Cullinan
<b>E</b>	Redford	Luckhurst	Mangat

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

- (2) all members of the Committee be appointed as substitutes for the above Panels; and
- (3) by virtue of the Licensing Act 2003, the Panels not be politically proportionate to the Council and the departure from political proportionality for the Panels not considering matters made under the Licensing Act 2003, be approved.

### **7. Minor amendment to procedure for Licensing & Regulatory Panels**

The Committee considered a report from Democratic Services which brought forward a minor amendment to the process for Licensing & Regulatory Panels in association with holding the meetings remotely.

Up to May 2020 when determining an item, the Licensing & Regulatory Panel would retire to deliberate a decision with only the Committee Services Officer and Legal Services Officer present to record the decision. Once the decision was agreed all interested parties (and if a public meeting, the public as well) had been invited back into the meeting and informed of the decision.

With the advent of remote meetings, a temporary measure was introduced, in June 2020, so that there was no requirement to invite people back into the meeting to hear the decision. Once a decision was reached a summary of the decision was published online and sent to all interested parties via email with, as at present, the full decision notice following within the next seven days.

This was because inviting people back into the meeting provided a technical challenge in terms of pausing the live broadcast (for an undefined period of time) then starting it again for a few minutes while the decision was announced.

Officers had checked the legislative requirement, as well as practice from other Councils, and there was no requirement for the formal announcement of the decision to the interested parties and not all Councils provided this.

This proposal also removed the need for interested parties to wait for the decision (which they often felt obliged to do) which could take anywhere from a few minutes to a number of hours.

This had operated over the previous 12 months, through 11 Panels, with no adverse comments from parties who attended.

The Committee therefore

**Resolved** that the requirement for all parties to be invited back into the meeting once the decision is taken, to notify them of the decision, be suspended.

(The meeting ended at 4:47pm)

CHAIRMAN  
18 July 2021



# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 29 April 2021, at 2.30pm.

**Present:** Councillors Evans, Grey and Illingworth.

**Also Present:** Rob Edwards (Committee Services Officer), Caroline Gutteridge (Council's Solicitor), and Emma Dudgeon (Licensing Enforcement Officer).

## 1. **Appointment of Chairman**

**Resolved** that Councillor Grey be appointed as Chairman for the hearing.

## 2. **Declarations of Interest**

There were no declarations of interest made.

## 3. **Application for a Premises Licence under the Licensing Act 2003**

The Panel considered a report from Health and Community Protection which asked Members to decide whether the premises licence application for Golden Wines & Spirits, 109 Warwick Street, Royal Leamington Spa should be granted and, if so, whether the licence should be subject to any additional conditions. Representations had been received in relation to this application for the consideration of the Panel in the determination of the application.

Details of the procedure adopted by the Licensing and Regulatory Committee for Panel Hearings were supplied to the applicant and those making representations.

Mr Vengadasalam Giritharan applied for a variation of the premises licence at Golden Wine & Spirits on 15 March 2021, and a copy of the current premises licence was attached as appendix 1 to the report.

The licensable hours applied for by Mr Giritharan were:

Opening Hours of the premises:  
Monday to Sunday from 09:00 to 04:00.

Supply of Alcohol for Consumption Off the Premises:  
Friday and Saturday from 09:00 to 04:00.

An amendment of the operating schedule, which had been submitted by the applicants and would form part of any licence issued was attached as appendix 2 to the report.

The Licensing Department received a representation from Warwickshire County Council Safeguarding. Following the agreement of the following two conditions they subsequently withdrew their representations:

1. Children under 16 must be accompanied by an adult after 21:00 hours.
2. No children under 16 permitted on the premises after 23:00 hours.

The Licensing Department had received an objection from Warwickshire Police, attached as appendix 3 to the report and Environmental Health, attached as appendix 4 to the report.

No representations had been received from:

- Fire Authority
- The Licensing Authority
- Enforcement Agency for Health and Safety
- Authority Responsible for Planning
- National Health Service/Public Health

A plan of the area was attached as appendix 5 to the report, and photographs of the premises were attached as appendix 6 to the report.

The Chairman asked Members of the Panel to introduce themselves. The other parties then introduced themselves as:

- Mrs Giritharan, attending the hearing on behalf of the applicant;
- Mr Lawson, Senior Environmental Health Officer (Warwick District Council);
- Sgt Calver, Warwickshire Police; and
- Sgt McMurray, Warwickshire Police.

The Council's Solicitor announced the procedure for the meeting. At the Chairman's request, the Licensing Enforcement Officer introduced the report.

During her representation, Mrs Giritharan stated that although the application was to be open until 04:00, given the objections from Warwickshire Police and Environmental Health she was happy to change this and request 02:00. As this was the first time Warwickshire Police and Environmental Health were notified of this change, the Chair asked the interested parties if they needed time at this point to consider changing their representations, or whether they were content to proceed with the hearing. The interested parties were content to continue because even with the change from 04:00 to 02:00, their objections still remained.

In response to questions from the Senior Environmental Health Officer, Mrs Giritharan advised that if the hours were extended, it was expected that more than 20 people would visit the premises, and most of the customers currently visiting had requested extended hours. There were no other corner shops nearby and her shop was located on a quiet street. In the four months since the shop opened, customers had been polite, and the probability of an increase anti-social behaviour or noise nuisance

caused by the extended hours would be low. It was expected that customers would be local residents, most likely from nearby flats.

When given the opportunity by the Chairman to make his representation, the Senior Environmental Health Officer advised that the proposed extension until 04:00, and indeed 02:00, was likely to give rise to noise nuisance to the Town Centre residents from customers going to and from the shop and walking around drinking in the streets of the Town Centre in the silent hours of the night. Immediately opposite the premises and close-by were flats that were located above some of the shops on the street, many with windows that overlooked the shop and the routes to and from the shop, and residents would be disturbed by people coming in and out of the shop during the quiet night-time. There was a concern that there could be people talking, laughing and shouting as they approached the street in search of buying more alcohol from the shop. All of this activity would stand out because the background noise after midnight was very quiet. Another area of concern was the noise of the vehicles associated with customers buying from the shop on the way home from the Town Centre, or Taxi Drivers stopping outside while their customer entered the shop. Environmental Health was concerned that consumption of alcohol from the shop would be outside on the street or whilst wandering up the road with drinks in hand, talking loudly. Having alcohol available so late after midnight, evenings that would have ordinarily wound up could continue because of the availability of alcohol at such a late hour and could also increase impulse buys of alcohol in the early hours. This would result in an increase of noise from 'pop-up' parties that might not have previously happened and would disturb the residents living nearby.

When given the opportunity by the Chairman to make his representation, Sgt Calver, Warwickshire Police, advised that the Police's objection included the 02:00 suggestion made by the applicant. At the time of the application, the country was still in midst of the Covid-19 pandemic and the application would have an impact on the licensing objectives going forward once restrictions were lifted during the roadmap of easing. Outside of the Covid-19 pandemic, Royal Leamington Spa Town Centre had a thriving night-time economy with a very diverse setting; a large student population through the week and visitors at the weekends. The town centre was part of the Public Spaces Protection Order (PSPO) where it was covered by restricted alcohol drinking, particularly during the night-time economy. Due to this, most pubs, clubs and restaurants within the Town Centre had conditions preventing alcohol being taken off the premises after 11pm, and there were two other off-licences in town that had a closing hour of midnight. Should the application be approved, there would be an increase of risk of crime and disorder and nuisance. Changing the closing time to 02:00 would allow patrons of the night-time economy to continue purchasing alcohol and walk around the Town Centre drinking, whilst moving between venues and queuing for venues. It would also increase the risk of the public purchasing alcohol after leaving the Town Centre and continuing drinking in the street on the way home, potentially causing further anti-social behaviour and the potential for weapons to be left lying around or groups of people congregating in public open spaces in the early hours, which would cause noise for local residents. Overall, the

application would increase the level of alcohol on the streets and potential weapons and would put people at risk of breaching the PSPO requirements. Whilst he appreciated that the Covid-19 pandemic had put an economic strain on businesses, the application had to be balanced between the licensing objectives and the economic need. In the opinion of Warwickshire Police, the promotion of the licensing objectives outweighed the economic factors with regards to the application. Sgt Calver also informed Members that his colleague Sgt McMurray was present in the meeting and was available should the Panel have any specific questions regarding the Town Centre.

In response to a question from Councillor Illingworth, the Legal Officer and Sgt Calver confirmed that the PSPO was District wide, and therefore covered the location of the premises. It was clarified that the PSPO did not prohibit drinking in the street but allowed Police to direct a person to stop drinking and hand over alcohol, and if they refused to do so then that would be an offence. Where there was a risk to anti-social behaviour or crime and disorder, the order gave Police the power to remove that alcohol. This risk drastically increased in the night-time economy where there were larger numbers of people and more alcohol.

Mrs Giritharan stated that the location of the shop needed to be considered because near to the premises there were no pubs, and less of a possibility of people coming from other venues drunk to visit the shop. Her husband was the Designated Premises Supervisor, and she assured the Panel that they would take responsibility and not serve customers who engaged in anti-social behaviour or were drunk.

In response, Sgt Calver explained that he appreciated the location of the premises, but advised that there were students living not far from the shop who could purchase alcohol while coming into the Town Centre where they would begin queuing for venues. It was also located at an 'exit destination' from the Town Centre; with the premises in the Town Centre closing anything from 23:00 to 04:00, people could then leave and stop off at the shop because they knew it was open. As they would not be able to take off licence sales from the pubs/restaurants they had visited because of the restrictions placed in those venues, they would use the premises as a destination venue to purchase alcohol in the early hours.

In her closing statement, Mrs Giritharan thanked the Panel and the Interested Parties for considering the application. She stated that using a window serving system until 02:00 would be something she would be happy with, if the Panel was minded to decide that.

At 3:07pm, the Chairman reminded those present of the procedure: the remote meeting would be ended by the Committee Services Officer; a separate meeting would be arranged with the Members of the Panel, the Council's Solicitor and the Committee Services Officer; the decision would be communicated in writing via email to the applicant and interested parties later on the same day, followed by a written notice with a full decision within seven days.

**Resolved** that the application be refused.

In reaching their decision the Members of the Licensing Panel considered all the written and oral evidence provided by the Applicant and the Responsible Authorities.

The Panel have also had regard to the statutory guidance under s182 of the Licensing Act 2003 and the Warwick District Council Statement of Licensing Policy.

The Panel has to consider the application in the light of the licensing objectives. The two objectives that are particularly engaged in this case are the prevention of crime and disorder and the prevention of public nuisance.

At the beginning of the hearing the Licensing Officer clarified that the report at para 3.5 should state that the licensable hours applied for in relation to the supply of alcohol for consumption off the premises were 09:00 to 04:00 hours Monday to Sunday. Warwickshire Police and Environmental Health had made relevant representations objecting to the application. Sergeant Paul Calver and Sergeant McMurray attended the hearing on behalf of Warwickshire Police. Mr Peter Lawson, Senior Environmental Health Officer attended on behalf of Environmental Health.

Mrs Tharika Giritharan attended the hearing on behalf of the Applicant. On addressing the Panel Mrs Giritharan confirmed that the Applicant would be happy to amend the application so that the terminal hour for supplying alcohol would be 02:00 Monday to Sunday instead of 04:00 hours. Sergeant Calver and Mr Lawson indicated that they noted the change but would maintain their objections.

The Panel appreciated that there were no fixed trading hours for premises in Leamington Town Centre and that each application should be judged on its own merits. However, the Panel concluded that a shop selling alcohol late into the night may become a destination for people wanting to purchase alcohol after pubs and restaurants had shut or as they moved between licensed premises. It was understood that most, if not all, on-licensed premises within the town centre were subject to conditions requiring them not to offer alcohol for sale for consumption off the premises and that the

other two off-licences in the town centre were also only licensed until midnight. The Panel gave significant weight to the representations made on behalf of the police, namely that by permitting the sale of alcohol for consumption off the premises until 02:00 hours it could cause people to congregate on Warwick Street and in the surrounding area leading to an increase in late night on street drinking and resulting in an increase in crime and disorder and anti-social behaviour.

The Panel also gave weight to the representations made by Mr Lawson who advised that there were a number of residential dwellings in the area including flats opposite the premises. After midnight background noise was very low so any noise would be likely to be disruptive and that people purchasing alcohol late at night and then drinking it on the street could cause public nuisance. Mr Lawson has also expressed concern that granting the application may result in vehicles (including taxis) regularly arriving and leaving the premises in order to purchase alcohol after midnight causing disturbance to residents at a particularly noise sensitive time.

The Panel also considered the suggestion made on behalf of the Applicant that a condition could be added to the varied licence requiring a window serving system to be used after a certain time. The Panel could not see how this would address the concerns raised by the Responsible Authorities. The Panel, in consideration of the licensing objectives and the overall interests of the local community have therefore unanimously decided to refuse the application.

(The meeting ended at 3:07pm)

CHAIRMAN  
19 July 2021

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 3 June 2021, at 10.00am.

**Present:** Councillors C Gifford, Grey and Syson.

**Also, Present:** Rob Edwards (Committee Services Officer) Abbie Onib, (Civic & Committee Services Manager) Samantha Amphlett (Council's Solicitor), and Emma Dudgeon (Licensing Enforcement Officer).

## 1. **Appointment of Chairman**

**Resolved** that Councillor Grey be appointed as Chairman for the hearing.

## 2. **Declarations of Interest**

Councilor Syson informed the Panel that she knew Gill Smith as they both served on the Conservation Advisory Board together.

## 3. **Application for a Premises Licence under the Licensing Act 2003 for Revive Café Limited, 7 Smith Street, Warwick.**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence application under the Licensing Act 2003 for Revive Café Limited, 7 Smith Street, Warwick.

The Chairman asked the applicant and the objector to introduce themselves. Johnny Hung, a business consultant, represented the applicant and Lori Neal, a shareholder of Revive Café was present, along with Gill Smith who had objected to the application.

The Council's Solicitor explained the procedure for the hearing.

The Licensing Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the licence application should be granted, if so, whether the licence should be subject to any conditions.

An application for a premise licence at Revive Café Warwick was received on 8 April 2021. The premises operated as a café/restaurant serving hot and cold drinks and food with alcohol sales.

The licensable hours applied for by Revive Café are detailed below. Opening Hours of the premises:

Monday to Sunday from 08:00 to 23:00

Supply of Alcohol for Consumption on and Off the Premises:

Monday to Sunday from 08:00 to 23:00

Recorded Music (Indoors only)

Monday to Sunday from 08:00 to 23:00

An operating schedule, which had been submitted by the applicants and would form part of any licence issued was attached as appendix 1 to the report and additional documents submitted by the applicant for the Panel were attached as appendix 2 to the report.

A representation had been received from a local resident which was attached as appendix 3 to the report. The Licensing Department had submitted a representation from Warwickshire County Council Safeguarding and Trading Standards. Following the agreement of conditions, they withdrew their representations. These conditions were as follows:

1. must have a policy on clearing glasses to minimise opportunities for children to access leftover alcohol.
2. all children under 16 years of age must be accompanied by an adult after 9pm. After 9pm any unaccompanied child appearing to be under the age of 16 years old would not be served food or drinks. Refusal of service must be recorded in the refusals log.
3. a prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made (for example an EPOS - Electronic Point of Sale - system till prompt or if not then written notices/stickers at the till point showing age limits).
4. a 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card (as opposed to a Challenge 21 policy).

The applicant's representative, Mr Hung, addressed the Panel and explained steps that would be taken to promote the four licensing objectives.

He explained that concerning the prevention of crimes and disorder, notices would be put around the café, and drunk behaviors by the customers would not be permitted. Staff, shareholders, and senior managers had received training before they started working at the café. He stated that drugs would not be tolerated within the premises. Customers and staff had been told to be vigilant, CCTV had been installed and would be monitored, and 30 days of data storage would be applied to ensure the safety of staff and customers. They had been in touch with the Trading Standards, Environmental Health and the Police and they had no reservations about the application.

With regards to public safety signage would be displayed showing cleaning was in progress or warning in areas where customers should not access such as kitchen and restricted areas. There would be logbooks of incidents or accidents that happened on site, the logbook would be kept on the premises and it would be available for inspection by an authorized person from the Local Authority as per Licensing Act 2003.

There would be adequate access provided for emergency vehicles and adequate access and provisions for disabled and impaired customers. Fire extinguishers and fire blankets in line with the Fire Safety governed by the Regulatory Reform (Fire Safety) Order 2005 would also be available.

On the prevention of public nuisance, Mr Hung explained that clear and legible notices would be shown on all exit signs requesting customers to respect nearby residents and businesses and to keep the noise to a respectful minimum. Deliveries would be received with the least amount of disturbance for nearby residents and businesses. Mr Hung explained that lighting both inside and



outside the building would be monitored and could be changed if there were complaints by local residents.

With regards to protection of children from harm, the premises would support Challenge 25. Signage would be at the premises and the till point at the point of purchase. This was one of the recommendations from Trading Standards. Notice stating that under 18's would not be permitted to be served or consume alcohol would be in the premises. All staff would be trained on noticing signs and actions during working hours of child neglect. This was in line with local authority guidelines.

There would be no adult themed entertainment, and any vacated table would be immediately cleaned and sanitized under Covid-19 rules. Children under the age of 16 would not be permitted to come in without adult guidance.

Mr Hung explained that this was a local business run by a local family, and the shareholders lived and operated businesses in Warwick. A front office general manager had been hired and the business had provided job opportunities to local residents.

The café would not be a sports bar and the plan was to accommodate families with young children to make the café a restaurant bar. At present, the premises could only accommodate 26 covers due to social distancing. There was no space to make it a full bar.

Mr Hung explained he was the Alcohol Licence Holder and there was another shareholder who was a local resident. Staff had also taken mandatory training on licensing Laws 2003 and in particular child exploitation training.

Mr Hung explained that there was no precedent for having any noise or drunken behaviour complaints, and the application for Revive café needed to be judged on its merits, rather than a projection of an assumption. Revive Cafe would be operating within the standard licensing hours.

In response to questions from the Panel, Mr Hung advised that:

- currently the premises could only operate 26 covers but the maximum number of covers was 52 covers;
- the café would not be a sports bar, the television was on the side wall on the back next to the toilet and in front of it would be a table tennis table and a pool table and football table and there would be very limited seating in that area, the maximum would be eight people;
- to come into the café, the online booking system had to be used by customers and if they tried to stay longer than the required time for them, the plan was to stop the use of the pool table, table tennis and football table at a particular time;
- on the issue of recorded music they intended to play very chilled out music, jazz music and coffee time music; there was no plan for rock music or heavy electronic music. The music would go along with fine dining and ambient music on the background. They would not be endorsing electronic dance music.
- the game tables would only be available on Friday and Saturday and potentially it would also be available on Thursday. If there were lots of bookings for the fine dining the games element would be removed temporarily. The football table and pool table and tennis table would not be in

- operation when fine dining occurring. The revenue that would be generated on a Friday and Saturday night would be more beneficial than the games; and
- Café revive would be closed on a Sunday to Thursday at 6pm when it was not running the fine dining experience and there would be no late evenings opening from Sunday to Thursday. The future agenda was to open a comedy night on a Thursday evening.

In response to questions from the interested party, the applicant explained that:

- the application for an off licence was to be able to maximise the opportunity to apply for one because they may need one at a later date; and
- those were the maximum hours by law and the reason they put in the application is to obtain the maximum number of hours.

At the request of the Chairman, Mrs Smith explained her concern about how off sales would impact local residents and the length of time the off licence had been asked for.

In response to a question from the applicant, Mrs Smith explained that she had not visited the café.

In summing up, the applicant thanked the panel and explained that the context had been miscommunicated to the local community on what the plan was about. He hoped that the documentation he supplied to the local residents and the Council showed the true intentions that were intended for the premises and how they renovated a derelict site. They were conscious of licensing laws, challenge 25, child exploitation and were working closely with the Environmental Health officers and Trading Standards. They were liaising with the right department and they were not going outside the guidelines that were legally set, and they provided benefits to the staff by providing work for them and would be a service and a thriving business for the people of Warwickshire.

Jonathan from CMIS

At 11.08am, the Chairman reminded those present of the procedure: the remote meeting would be ended by the Committee Services Officer; a separate meeting would be arranged with the Members of the Panel, the Legal Advisor and the Committee Services Officer; the decision would be communicated in writing via email to the applicant later on the same day, followed by a written notice with a full decision within seven days.

**Resolved** that the application for a premises licence for 7 Smith Street Warwick should be granted subject to the conditions listed at paragraph 3.7 of the Licensing Officer's report.

In reaching this decision the Councillors had considered your submissions and the operating schedule, setting out the measures that would be taken to ensure that the licensing objectives are complied with.

For the avoidance of doubt, the Panel noted that the licence would include amongst others, those conditions listed at paragraph 3.7 of the Licensing Officer's report, which had been agreed and stated as follows:

1. Must have a policy on clearing glasses to minimise opportunities for children to access leftover alcohol.
2. All children under 16 years of age must be accompanied by an adult after 9pm. After 9pm any unaccompanied children appearing to be under the age of 16 years old will not be served food or drinks. Refusal of service must be recorded in the refusals log.
3. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made (for example an EPOS - Electronic Point of Sale - system till prompt or if not then written notices/stickers at the till point showing age limits).
4. A 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card (as opposed to a Challenge 21 policy).

(The meeting ended at 11.08am)

CHAIRMAN  
19 July 2021

Licensing and Regulatory Committee  
19<sup>th</sup> July 2021

**Title:** Statutory review of Gambling Policy – Request for public consultation.

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Cllr Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: Yes

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Proposed 6 week public consultation.

Final Decision: Results of public consultation and draft Gambling Policy will be returned to this committee on 27<sup>th</sup> September 2021 and if supported the amendments will be considered by the Full Council on 20<sup>th</sup> October 2021.

Accessibility Checked: Yes

**Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	30.06.2021	Andrew Jones
Head of Service		Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	30.06.2021	Cllr Judith Falp

### 1. Summary

- 1.1. The purpose of this report is to advise Members of the Licensing and Regulatory Committee of the statutory requirement to review the Gambling Policy and to inform them of the proposed schedule for meeting our legal requirements.
- 1.2. This report sets out the new Gambling Policy/Statement of Principles to the Committee.
- 1.3. The report highlights the changes between the current policy and the proposed policy.

### 2. Recommendation

- 2.1. That the Licensing and Regulatory Committee supports the proposals to hold a public consultation on the revised policy between 23<sup>rd</sup> July 2021 and 3<sup>rd</sup> September 2021.

### 3. Reasons for the Recommendation

- 3.1. The Licensing Authority is required by the Gambling Act 2005 to review its Statement of Principles every three years.
- 3.2. The changes to the policy are minimal and are designed to reflect both the Authority's current approach to the Gambling Regime in terms of the unique character of the district and the application of generic legislation, and it's desire to work more closely with Stratford District Council.
- 3.3. The current Policy is attached at **Appendix 1** and the changes are listed in **Appendix 2**.

### 4. Policy Framework

#### 4.1. Fit for the Future (FFF)

- 4.1.1. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

#### 4.2. FFF Strands

##### 4.2.1 External impacts of proposal(s)

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - The gambling policy recognises that residents within, and visitors to the District, need a safe environment to live, work and visit; and that safe and well run gambling premises are important to the wellbeing of any person within the District.

**Money- Infrastructure, Enterprise, Employment** - The Licensing Authority recognises that gambling premises within the District are an important source of local employment.

**4.2.2. Internal impacts of the proposal(s)**

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term** – None.

**4.3. Supporting Strategies**

Each strand of the FFF Strategy has several supporting strategies. The Gambling Policy/Statement of Principles, provide guidance, consistency, best practices, transparency, proportionality and promotes safety and wellbeing to the community. This contributes to the Council's strategy of making Warwick District a great place to live, work and visit.

The policy outlines the way in which this Authority will assist in preventing gambling from being a source of crime. It highlights the procedures for enforcement protocols and best practices, and promotes working in partnership with the Gambling Commission, Responsible Authorities and Operators, and ensures that the licencing objectives are met.

**4.4. Changes to Existing Policies**

4.4.1. None.

**4.5. Impact Assessments**

4.5.1. An Equality Impact Assessment has been carried out. It is consistent with the Council's duty under the Equality Act 2010.

**5. Budgetary Framework**

5.1. There are no budgetary implications arising from this Policy review.

**6. Risks**

6.1. It is a legal requirement to review the Gambling Policy every three years, not to carry out the review could lead to legal challenge.

**7. Alternative Option(s) considered**

7.1. No alternative to reviewing the policy is available as this is a legal requirement.

**8. Background**

8.1 Warwick District Council s current Statement of Gambling Policy was adopted in January 2019 for a period of 3 years.

- 8.2 It is a legal requirement to review the Gambling Policy every three years.
- 8.3 The review of the current Gambling Policy has been undertaken with due regard to current Gambling Commission guidance, the Gambling Act 2005 and in consultation with neighbouring Licensing Authorities to ensure consistency across Warwickshire.



# GAMBLING POLICY (STATEMENT OF GAMBLING PRINCIPLES)

(Required by the Gambling Act 2005)

2022 - 2025



## **1. Introduction**

1.1 Warwick District Council, as the Licensing Authority ("the Authority"), makes this Statement of Policy ("the Statement") in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 ("the Act") and sets out the Authority's approach in dealing with its responsibilities under the Act.

1.2 Warwick District is situated in the south of Warwickshire in the centre of England and its boundaries embrace an area of some 28,253 hectares with a population of 143,753 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 20 Parish Councils.

### **1.3 List of Consultees**

The Authority has consulted the following on the content of this Statement of Principles:

- Responsible Authorities
- Holders of existing licences, permits and registrations
- Councillors and Parish Councils
- Representatives of businesses
- Representatives of persons carrying on gambling businesses in Warwick District
- Local bodies representing consumers and tourism
- Local bodies representing vulnerable persons
- Departments within the Council with an interest in the licensing of gambling

1.4 In preparing this Statement, the Authority has had regard to the provisions of the Act, the Guidance issued by the Gambling Commission and Regulations made by the Secretary of State. Due consideration has been given to the responses of all consultees and in determining the weight to be attached to particular representations the Authority has taken into account the following factors:

- Who is making the representation (what is their expertise or interest)
- The relevance to the licensing objectives
- how many others expressed the same or similar views

## **2. Gambling Act 2005**

2.1 The Act specifies licensing objectives which are central to the regulatory regime, these are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or 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

- 2.2 In carrying out the licensing function under the Act the Authority will aim to permit the use of premises for gambling as long as it is considered to be:
- In accordance with any relevant Codes of Practice issued by the Gambling Commission under section 24 of the Act.
  - In accordance with any relevant Guidance issued by the Gambling Commission under Section 25 of the Act.
  - In accordance with this Statement of Policy and
  - Reasonably consistent with the licensing objectives
- 2.3 The Act provides for 3 categories of licence:
- Operating licences
  - Personal licences, and
  - Premises licences
- 2.4 The Authority will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.
- 2.5 This Statement will come into force on the 31st January 2022 and will have effect until 30th January 2025 being kept under review and revised or amended as required following consultation.

### **3. Authorised Activities**

- 3.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.
- Gaming means playing a game of chance for a prize
  - Betting means making or accepting a bet on the outcome of a race, competition, or any other event, the likelihood of anything occurring or not occurring; or whether anything is true or not
  - A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance
- 3.2 The main functions of the Licensing Authority are to:
- Licence premises for gambling activities
  - Grant permits for gambling and gaming machines in clubs
  - Regulate gaming and gaming machines in alcohol licensed premises
  - Grant permits to family entertainment centres for the use of certain lower stake gaming machines
  - Grant permits for prize gaming
  - Consider notices given for the temporary use of premises for gaming
  - Receive occasional use notices for betting at tracks and
  - Register small societies lotteries
- 3.3 Spread betting is regulated by the Financial Services Authority. Remote Gambling is dealt with by the Gambling Commission. The National Lottery is regulated by the Gambling Commission.

### **4. General Statement of Principles**

- 4.1 The Authority recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs, amusement arcades and racing tracks.

- 4.2 In carrying out its licensing functions the Authority will have regard to guidance issued by the Gambling Commission.
- 4.3 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. This Statement will avoid duplication with other regulatory regimes wherever possible. In considering applications, and taking enforcement action, under the Gambling Act the Authority will have regard to the provisions of the Human Rights Act.
- 4.4 To ensure the licensing objectives are met the Authority will establish a close working relationship with the Police, the Gambling Commission and other Responsible Authorities.
- 4.5 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities. However, the overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits. The Authority can not take into account any moral objections to gambling.
- 4.6 In its Guidance to Local Authorities the Gambling Commission suggest that Licensing Authorities should adopt a "Local Area Profile". A Local Area Profile is created by gathering information about a locality and any particular areas of concern within that locality. Where evidence is submitted to the Licensing Authority which identifies any areas of concern it is intended to produce a Local Area Profile separate to this Statement. Once adopted, the Local Area Profile would assist the Authority and Operators in identifying specific local risks within the District.

## **5. The Licensing Objectives**

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

- 5.1.1 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling or being associated with providing such facilities.
- 5.1.2 When applying to this Authority for a premises licence the applicant will have to hold an operating licence from the Commission before a licence can be issued so the Authority will not be concerned with the suitability of the applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission. The Authority will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the Commissions Guidance, codes of practice and this gambling policy.
- 5.1.3 The applicant will be expected to demonstrate that they have, or intend to implement, sufficient controls to prevent the premises being a source of crime and disorder, associated with crime and disorder or used to support crime. This could include details of any risk assessments that have been carried out, measures relating to the design and layout of the premises to

minimise opportunities for crime and disorder and the strategies for managing the premises.

- 5.1.4 Where an area is known to have high levels of crime the Authority will consider carefully whether the location is suitable for gambling premises. The Authority will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, and demonstrate how they will promote this objective in this location. Where representations are received, it may be necessary for appropriate conditions to be attached to the licence, for example, Licensed Door Supervisors, CCTV or minimum levels of staffing.
- 5.1.5 Where a particular premises has a history of crime and disorder or a history of use by those involved in crime as a place of association or a way to dispose of the proceeds of crime the Authority will give careful consideration as to whether it is suitable to be licensed under the Act. The Authority may decide that any licence that is granted should be subject to additional conditions to promote this objective.
- 5.1.6 Whilst issues of nuisance are not included specifically in the gambling objectives and cannot be addressed via the Gambling Act, the Authority may consider, that extreme instances of public nuisance and persistent public nuisance amount to crime and disorder and may refuse to grant a licence or impose additional conditions in circumstances where serious and persistent public nuisance is associated with the premises.

## **5.2 Ensuring Gambling is conducted in a fair and open way.**

- 5.2.1 Generally it is for the Gambling Commission to ensure that this licensing objective is complied with as this will be a matter primarily dealt with under either the operating licence or the personal licence. Where the Authority suspects that gambling is not being conducted in a fair and open way this will be brought to the attention of the Commission.
- 5.2.2 In relation to the licensing of tracks, as defined by section 353 of the Act the Authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. In particular the Authority will consider whether the layout, lighting and fitting out of the premises have been designed so as to ensure that gambling is conducted in a fair and open way and whether sufficient management measures are proposed or in place. The Authority will also consider whether the operators have been compliant with enforcement agencies and whether the Commissions Codes of Practice have been complied with.

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

- 5.3.1 This objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. This also means restricting advertising so that gambling products are not aimed at or are, particularly attractive to children.

5.3.2 The Act and Gambling Commission Guidance do not define the term vulnerable but the Commission states that for regulatory purposes it assumes “vulnerable persons” includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health issues, learning disabilities or substance abuse. This is the definition the Authority will use in its consideration of applications. Whilst the Act does not prohibit vulnerable groups in the same manner as children and young persons the Authority will consider whether or not measures have been taken to protect such a group. Any such considerations will be balanced against the Authority’s aim to permit the use of premises for gambling and each application will be judged on its own merits.

5.3.3 The Authority will expect operators to put appropriate measures in place to protect children and other vulnerable persons. These could include, but are not confined to:

- Specific training programmes for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to exclude them from the premises or part of the premises
- Effective measures to implement a proof of age scheme for adult only premises
- Provision for self-barring schemes and access to information or helplines for organisations such as GamCare
- Appropriate design and layout of the premises to ensure that they do not attract children or vulnerable people including appropriate signage and location of machines
- Effective management of the premises to include refusals logs and sufficient numbers of staff
- Ensuring that any promotional materials do not encourage the use of the premises by children, or vulnerable people

5.3.4 The Authority will pay particular attention to any codes of practice which the Gambling Commission issues in relation to specific premises such as casinos. It will consider this licensing objective on a case-by-case basis, and where necessary add conditions to promote this objective.

5.3.5 The Authority will carefully consider the location of the premises in relation to this objective.

## **6. Premises Licences**

6.1 Section 150 of the Act permits the issue of premises licences authorising the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including tracks and premises used by betting intermediaries
- adult gaming centres
- family entertainment centres

6.2 Premises can be ‘any place’ but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more

than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different 'premises'.

- 6.3 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area.
- 6.4 Where the Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.
- 6.5 Other than an application for a betting premises licence in respect of a track, the Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 6.6 When considering applications for premises licences the Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.
- 6.7 The Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

## **7. Location**

- 7.1 The Authority is aware that demand issues cannot be considered with regard to the location of premises either at a district wide or more local scale. However, it considers that the location of gambling premises can be a major factor on the promotion of the licensing objectives. The Authority will pay particular attention to the suitability of a location for gambling activity in terms of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 7.2 Any existing Local Area Profile will be considered by the Authority. This will assist operators to make their decisions using the information which may highlight sensitive areas which they can take into account of any sensitive locations within close proximity to proposed gambling premises.
- 7.3 Applicants will have to show that they have considered any potential impact of their proposed business on the licensing objectives and provide information on how they plan to reduce or remove any likely adverse impact on them.
- 7.4 The Authority will carefully consider proposals for new gambling premises that are in close proximity to hostels or other accommodation or centres catering for vulnerable people, including those with mental disabilities or learning difficulties, and those with problem gambling or with alcohol or drug abuse problems, in the light of the gambling objectives.
- 7.5 It should be noted that an area being considered to be sensitive does not preclude any application being made and each application will be decided on its own merits.

## **8. Primary Activity**

- 8.1 The primary activity of each premises licence type is specified on the premises licence when it is issued. The Authority will take decisions in

accordance with the Commission's Guidance and Codes of Practice on primary gambling activity, and will have regard to the advice which it issues from time to time, and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operator's licence. The Authority will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed.

- 8.2 It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

## **9. Responsible Authorities**

- 9.1 These are generally public bodies that must be notified of all applications and who are entitled to make representation to the Authority if they are relevant to the licensing objectives.

- 9.2 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. In relation to the Authority's area, these are:

- The Licensing Authority itself
- The Gambling Commission
- The chief officer of police
- The Fire & Rescue Authority
- The local planning authority
- An authority with functions in relation to pollution of the environment or harm to human health
- A body designated in writing by the licensing authority as competent to advise about the protection of children from harm
- HM Revenue & Customs; and
- Any other person prescribed in regulations by the Secretary of State

Section 211 (4) provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 22 (1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities.

- 9.3 The Authority is required to set out the principles to be applied in exercising its powers to designate, in writing, a body which is competent to advise about the protection of children from harm. The principles applied in designating such a body are:

- the body must be responsible for covering the whole of the Authority's area, and
- the body should be answerable to democratically elected persons rather than any particular vested interest groups etc.

- 9.4 Details of the body designated for Warwick District Council and all other responsible authorities are available on [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk) and a printed form is available from the Authority.

## **10. Interested Parties**

- 10.1 Interested parties can make representations about licence applications or apply for a review of an existing licence based on the principles detailed in section 2 of this policy statement.

An interested party is someone who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons in either of the two groups above

- 10.2 The principles the Authority will apply to determine whether a person is an interested party are:

- Interested parties could include trade associations and trade unions, and residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 e.g. lives sufficiently close to the premises or has business interests likely to be affected by the activities being applied for
- Interested parties can be persons who are democratically elected. These include MPs, County and District Councillors, Town Councillors and Parish Councillors. 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. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient
- Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities

- 10.3 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 or in any other way have a personal interest that would preclude them from participating in a hearing. If there are any doubts then please contact the licensing team.

- 10.4 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is however other relevant legislation which deals with public nuisance.

## **11. Representations**

- 11.1 The Authority is obliged to consider representations from 'responsible authorities' and 'interested parties' and must determine whether or not



representations are admissible. A representation is inadmissible if not made by a responsible authority or an interested party.

- 11.2 The only representations likely to be relevant are those that relate to the licensing objectives, or that raise issues under this statement or the commissions Guidance or Codes of Practice. The Authority must determine the relevance of the representation.
- 11.3 Any concerns that responsible authorities have in relation to their own functions cannot be taken into account if they are not relevant to the application for a premises licence and the licensing objectives.
- 11.4 The Authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but before coming to a decision the Authority may consider the following:
  - who is making the representation, and whether there is a history of making representations that are not relevant
  - whether it raises a 'relevant' issue or not, or
  - whether it raises issues specifically to do with the premises which are the subject of the application

## **12. Conditions of Licence**

- 12.1 Conditions imposed by the Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence.
- 12.2 The Authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's Guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.
- 12.3 Any conditions imposed by the Authority will be proportionate to the circumstances they are intended to address. In particular, the Authority will ensure that any conditions are:
  - relevant to the need to make the premises 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
  - reasonable in all other respects, and
  - decided on a case by case basis
- 12.4 The Authority will not consider imposing conditions:
  - which make it impossible to comply with an operating licence condition imposed by the Gambling Commission
  - relating to gaming machines categories, numbers or method of operation
  - which specify that membership of a club or other body is required, and
  - in relation to stakes, fees, winnings or prizes

## **13. Casinos**

- 13.1 There are currently no casinos operating in the District.

- 13.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue casino premises licences. There is no resolution to prohibit casinos in the District at present. The Council reserves the right to review this situation and may, at some point in the future, resolve not to permit casinos. Should the Council choose to make such a resolution, this will be made in accordance with s166 of the Act and a resolution of full Council following considered debate.

#### **14. Betting Machines in Betting Premises**

- 14.1 The Authority is aware of its power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching licence condition to a betting premises licence.
- 14.2 In the event that the Authority considers whether to impose such a condition on any particular licence it may, among 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.

#### **15. Bingo**

- 15.1 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 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 licence, for that or those excluded areas.
- 15.2 Section 172(7) of the Act provides that the holder of bingo premises licences may make available for use a number of category B gaming machines for use on the premises.
- 15.3 This Authority also notes the Commission's Guidance in the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted. It is not permissible for all of the gaming machines to which each of the licenses brings an entitlement to be grouped together within one of the licensed premises.
- 15.4 The playing of bingo specifically in alcohol-licensed premises, clubs and miners welfare institutes is permissible under the exempt gaming allowances. Where the level of bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a bingo operating licence will be required by the Commission.
- 15.5 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 15.6 Commercial bingo halls will require a bingo premises licence from the Licensing Authority.
- 15.7 Under the auspices of their gaming machine permit, adult gaming centres may offer any type of prize gaming and unlicensed family entertainment

centres may offer equal chance prize gaming without the need for a prize gaming permit.

- 15.8 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, local Authorities will ensure that:
- all such machines are located in an area of the premises separate 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 the machines are located
  - access to the area where the machines are located is supervised
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
  - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

## **16. Tracks**

- 16.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 16.2 Track operators are not required to hold an 'operator's licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 16.3 Although there will, primarily, be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 16.4 When considering whether to exercise its power to restrict the number of betting machines at a track the Authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people accessing the machines.

## **17. Temporary Use Notices**

- 17.1 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 a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

- 17.2 The Licensing Authority can only accept a Temporary Use Notice from a person or company holding a relevant operating licence.
- 17.3 Regulations prescribed by the Secretary of State provide 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, for example games such as backgammon, cribbage, bingo and poker.
- 17.4 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance notes that the meaning of 'premises' in part 8 of the Act, is mentioned in Part 7 of the Gambling Commission Guidance. 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'. In considering whether a place falls within the definition of 'a set of premises', Licensing Authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 17.5 The Licensing Authority expects 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 Guidance.

## **18. Occasional Use Notices**

- 18.1 The Authority has very little discretion as regards to these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail them from the notice.

## **19. Gaming Machines**

- 19.1 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine. A machine that is capable of being used as a gaming machine whether or not it is currently operating as one would also be classified as a gaming machine.
- 19.2 The Authority is aware of its power to restrict the number of gaming machines in certain circumstances. In the event that the Authority considers whether to impose such a restriction on any particular permit it may, among other things, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 19.3 The Authority will be unable to issue premises licences to authorise gaming machines in certain types of premises. These generally will be premises to which children and vulnerable people will have unrestricted access and would include take-away premises, taxi offices, supermarkets etc.

## **20. Unlicensed Family Entertainment Centre Gaming Permits**

- 20.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority 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.

- 20.2 The Gambling Act 2005 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. The Gambling Commission’s Guidance also states that in their three year licensing policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits and Licensing Authorities will want to give weight to child protection issues.
- 20.3 Guidance also states that 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 may wish to consider asking applicants 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
- 20.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 20.5 With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

## **21. (Alcohol) Licensed Premises Gaming Machine Permits**

- 21.1 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 the Licensing Authority. The Licensing Authority 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
- 21.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based

upon the licensing objectives, any guidance issues by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant*”.

This Licensing Authority considers 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 that will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

- 21.3 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 Entertainment Centre premises licence.
- 21.4 It should be noted that the Licensing Authority 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.
- 21.5 It should also be noted that the holder of a permit must comply with Gaming Machines in Alcohol Licensed Premises Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **22. Prize Gaming Permits**

- 22.1 The Gambling Act 2005 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 propose to consider in determining the suitability of the applicant”.
- 22.2 This Authority has adopted a Statement of Principles that is available from the licensing department or at [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk). Potential applicants/other interested persons are advised to read the Statement of Principles before applying to the Licensing Authority for a licence or permit.
- 22.3 In making its decision on an application for this permit the Authority does not need to, but may have regard to, the licensing objectives but must have regard to any Gambling Commission Guidance.
- 22.4 It should be noted that there are condition in the Gambling Act 2005 by which the permit holder must comply, but the Licensing Authority 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 nonmonetary prize), and
- participation in the gaming must not entitle the player to take part in any other gambling

## **23. Club Gaming and Club Machine Permits**

- 23.1 Members clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, 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 B, C or D).
- 23.2 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. It is anticipated that this will cover bridge and whist clubs, which will 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.
- 23.3 This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for members or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
  - the applicants' premises are used wholly or mainly by children and/or young persons
  - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
  - a permit held by the applicant has been cancelled in the previous ten years, or
  - an objection has been lodged by the Commission or the police"
- 23.4 It should be noted that there is a "fast track procedure available for premises which hold a Club Premises Certificate under the Licensing act 2003. As the Gambling Commission's Guidance for local authorities states: "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" and "The grounds on which an application under the process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12

- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled”

23.5 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.

## **24. Lotteries**

24.1 In carrying out its functions in relation to Lotteries, the Authority will have regard to the Act, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

24.2 The Act makes it illegal to promote lotteries unless they are licensed or within an exempt category. One such exemption relates to registered small society lotteries and the Authority is responsible for registering small society lotteries, which are promoted by non-commercial organisations that are established for:

- charitable purposes
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain

## **25. Exchange of Information**

25.1 The principle that the Authority will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the General Data Protection Regulations will not be contravened. The Authority will also have regard to any guidance issued by the Gambling commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **26. Enforcement Protocols**

26.1 The Authority will liaise with the Gambling Commission and other enforcing authorities on enforcement issues. These protocols will include agreements relating to joint inspections and joint strategies. This will provide a more efficient deployment of the Authority’s officers and other officers that are commonly engaged in enforcing gambling law and inspection of licensed premises. For example, these protocols should also provide for the targeting of resources towards high-risk premises and activities that require greater attention. A lighter touch will apply in respect of low risk premises, which are well run.

26.2 In general, action will only be taken in accordance with the principles of the Regulatory Compliance Code, Licensing Authority Enforcement Policy and the



relevant provisions as they come into force of the Regulatory Enforcement and Sanctions Act 2008. To this end the key principles of consistency, transparency and proportionality will be maintained.

- 26.3 As per the Gambling Commission Guidance to Licensing Authorities, the Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.
- 26.4 The Council has adopted and implemented a risk based inspection programme based on:
- relevant codes of practice
  - guidance issued by the Gambling Commission
  - the licensing objectives
  - the principles set out in this statement of gambling policy
- 26.5 The main enforcement and compliance role for this Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions, which it authorises. The Gambling commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

## **27. The Licensing Process**

- 27.1 The powers of the Council as a Licensing Authority under the Act may be carried out by the Licensing and Regulatory Committee and then put before Full Council. Applications under the Act will be dealt with in accordance with the Council's scheme of delegation.
- 27.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants must carry out a risk assessment before they apply for a licence.
- 27.3 The Authority will 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

Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected and should be kept on the premises at all times.

- 27.3 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms will be available on our website [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk) this includes contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a

fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

- 27.4 The Act requires Licensing Authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request to view entries. The register is available online or in print at Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

Effective 31st January 2022 Valid until 30th January 2025.

## Appendix 2

### REVIEW ALTERATIONS

#### Alterations to Draft Gambling Policy:

1. 1.2 – population number updated
2. 1.3 – format altered to include list of consultees and remove Appendix 1. This change puts us in line with Stratford District Council.
3. 3.2 – Family entertainment centre permits added to the list.
4. 4.2 - added to align with Stratford District Council.
5. 4.5 altered to align with Stratford District Council.
6. 5.1.2 – sentence moved from 5.1.3 to align with Stratford District Council.
7. 10.2 – bullet point added and existing points re-ordered to align with Stratford District Council.
8. 10.3 – added to align with Stratford District Council.
9. Appendix 1 – removed as now listed within the policy.

Licensing and Regulatory Committee  
19<sup>th</sup> July 2021

**Title:** Street Trading Policy Review – Request for public consultation.

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Cllr Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Proposed 6 week public consultation.

Final Decision: No

Accessibility Checked: Yes

**Officer/Councillor Approval**

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	07.06.2021	Andrew Jones
Head of Service	24.06.2021	Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	07.06.2021	Cllr Judith Falp

## 1. Summary

- 1.1. To present the reviewed Street Trading Policy and to request that the document be put forward for public consultation before being recommended to Executive for adoption.

## 2. Recommendation

- 2.1. That the Licensing and Regulatory Committee supports the proposals to hold a public consultation on the reviewed Street Trading Policy (attached as Appendix 1).

## 3. Reasons for the Recommendation

- 3.1. The Street Trading Policy has undergone a routine review. The policy requires a full consultation exercise to be carried out when major changes are made to it.
- 3.2. Changes are proposed to the standard trading hours and to introduce a new type of consent.
- 3.3. The reviewed Policy is attached at Appendix 1.

## 4. Policy Framework

### 4.1. Fit for the Future (FFF)

- 4.1.1. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

### 4.2. FFF Strands

#### 4.2.1 External impacts of proposal(s)

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - The Licensing Authority recognises that residents within, and visitors to the District, need a safe environment to live, work and visit; and that safe and well managed street traders are important to the wellbeing of many people within the District.

**Money- Infrastructure, Enterprise, Employment** - The Licensing Authority recognises that street trading within the District is an important source of local employment.

#### 4.2.2. Internal impacts of the proposal(s)

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term – None.**

**4.3. Supporting Strategies**

- 4.3.1. Each strand of the FFF Strategy has several supporting strategies. The Street Trading Policy, provide guidance, consistency, best practices, transparency, proportionality and promotes safety and wellbeing to the community. This contributes to the Council's strategy of making Warwick District a great place to live, work and visit.

**4.4. Changes to Existing Policies**

- 4.4.1. None.

**4.5. Impact Assessments**

- 4.5.1. An Equality Impact Assessment has been carried out. It is consistent with the Council's duty under the Equality Act 2010.

**5. Budgetary Framework**

- 5.1. There are no budgetary implications arising from this Policy review.

**6. Risks**

- 6.1. There are no additional risks to the Council in adopting the reviewed Street Trading Policy.

**7. Alternative Option(s) considered**

- 7.1. That the Policy is not reviewed.



**Warwick District Council**

**Street Trading Consent Policy**

**Local Government (Miscellaneous Provisions) Act 1982**

**March 2021**

**Revision History**

<b>Document</b>	Street Trading Policy
<b>Author</b>	Kathleen Rose – Licensing Team Leader
<b>Date Completed</b>	
<b>Reviewed Date</b>	

<b>Version</b>	<b>Revision Date</b>	<b>Revised By</b>	<b>Revisions Made</b>
<b>1.0</b>	28 <sup>th</sup> September 2016	K. Rose	Final Original Document
<b>2.0</b>	11 <sup>th</sup> May 2021	K. Rose	Proposed increase to trading hours from 6pm to 8pm daily. Proposed introduction of a third annual trading consent to allow for 'static trading' from multiple locations.

**Approvals**

This document requires the following approvals:

<b>Name</b>	<b>Title</b>
Licensing & Regulatory Committee	
Executive	

**Distribution**

<b>This document has been distributed to: Name</b>	<b>Title</b>
All Members	WDC Councillor
Relevant Representatives	



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## **1: INTRODUCTION AND SCOPE**

- 1.1 Warwick District Council recognises the valuable contribution that street trading can make to the local culture and economy, and the service that street traders provide to residents of the district, some of whom are unable to travel to centralised shopping centres. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.
- 1.2 The Council is also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully. However, issues arise where vendors do not pay due regard to their siting, and create an obstruction in the street, or make it dangerous for people to move around them.
- 1.3 Street trading can also result in unnecessary littering and other nuisance to persons visiting, living or working in the vicinity. For this reason, Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4.
- 1.4 Warwick District Council has designated **all** streets within its boundaries as "Consent Streets". The effect of this designation is that if you want to sell goods on the street, you are classed as a Street Trader and, subject to legal exemptions, will need to have the appropriate consent. Conditions can be attached to the consent as are considered 'reasonably necessary'. Trading without the required consent is a criminal offence.

### **OBJECTIVES**

- 1.5 Central to the Council's policy are a number of key objectives which are:
  - To ensure that traders operate within the law and act fairly in their dealings with the public so as not to present a risk to public order
  - To prevent public nuisance by taking measures to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells
  - To ensure the suitability of the structures used for the sale of goods on the street
  - To permit temporary or occasional street trading, where appropriate
  - To ensure that the process involves opportunities for consultation with relevant agencies

## **PURPOSE OF THE POLICY**

- 1.6 This Policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way. In considering each application for the grant or renewal of a street trading consent the following factors will be considered:

### **Public Safety**

Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.

### **Public Order**

Whether the proposed activity presents or could present a risk to public order.

### **The Avoidance of Public Nuisance**

Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

### **Local Area Needs**

Consideration will be given to the character of the area (eg conservation area)

## **POLICY REVIEW**

- 1.7 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years.
- 1.8 The Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any major changes will be agreed by Full Council.
- 1.9 Examples of 'major changes' are changes that are:
- likely to have a significant financial effect on consent holders
  - likely to have a significant procedural effect on consent holders
  - likely to have a significant effect on the community

## **CONTACTING THE TEAM**

- 1.10 If after reading this policy you require further information you are welcome to seek assistance from the Licensing Team.

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

Address: Licensing, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

- 1.11 An Equality Impact Assessment (EIA) on this policy was undertaken on 20/11/2019, the updates to this policy do not impact on the previous EIA and will be reviewed again in 2026.

## **2: REGULATORY FRAMEWORK**

### **What is Street Trading?**

- 2.1 Street trading means selling, exposing or offering for sale any article (including a living thing) in a street. This includes a wide range of retail activities e.g. food, beverages, arts and crafts, jewellery, household goods, clothing etc. It also includes the sale of vehicles from the roadside.

### **What is a Street?**

- 2.2 A street means any road, footway, beach, service area as defined in section 329 of the Highways Act 1980 or other area to which the public have access without payment. The Courts have confirmed that any land located away from the highway which the public can access without payment, including privately owned land, is capable of being a street for these purposes. For example, this could include car parks, trading estates, forecourts, open spaces etc. However, the Council takes the view that street trading controls would not normally apply within buildings.

### **What is not Street Trading**

- 2.3 Certain activities are exempted from street trading control by the legislation. These include:
- trading as a pedlar under a pedlar's certificate
  - trading at an established market or fair
  - trading as a news vendor
  - trading at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop
  - trading as a roundsman (i.e. delivering pre-ordered goods to customers)
  - trading from a licensed highway area (Cafe Permit or Pavement Licence)

### **Requirement to Obtain Consent**

- 2.4 A person intending to sell items from a street in accordance with the above definitions of "street" and "street trading" will be required to obtain full written consent from the Council to do so, unless they fall within any of the 'Deemed Consent' categories or 'Prohibitions' listed below:

### **Deemed Consent**

- 2.5 The registered keeper of a vehicle may display the vehicle for sale at the registered address for that vehicle (subject to a maximum of two vehicle sales per household per year) without the need for a street trading consent.

### **Prohibitions**

- 2.6 The following will not be issued with street trading consents:
- Suitcase salesmen and similar itinerant traders
  - The selling of cars and other vehicles in the course of a trade or business
  - The sale of live animals

### **Consent Period**

2.7 Warwick District Council has 3 types of consent.

- 2.7.1 An Annual Consent which may be granted for any period not exceeding 12 months
- i. For static pitches
  - ii. For touring traders
  - iii. For multi-site static pitches
- 2.7.2 A Single Use Consent – for trading with a static pitch for a period not exceeding 72 hours (or 3 consecutive days)
- 2.7.3 Multiple Trader/Special Event Consent
- We will issue a single consent, which will cover a number of traders for a period not exceeding 72 hours (or 3 consecutive days). The number of traders covered is as follows:
- Category 1 – Up to 20 traders
  - Category 2 – Between 21 and 49 traders
  - Category 3 – Between 50 and 75 traders
  - Category 4 – Between 76 and 99 traders
  - Category 5 – over 100 traders

**Fees**

- 2.8 A fee will be charged for processing any application for consent, transfer, variation or the issue of a replacement consent. The scale of charges will be published on the Warwick District Council web site. Fees are broken down into 2 elements, an Application fee and a Consent fee. Where an application is unsuccessful the Consent element of the fee will be refunded.

**3: APPLICATION PROCESS**

**New Annual Consents**

- 3.1 Application forms may be obtained by downloading them from the website. Each application form must be accompanied by the following supporting documentation:

**All Traders**

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 1 month old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.

**Static Trader Specific Requirements**

- A copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- A photograph of the proposed site.
- Permission from the landowner.

### **Mobile Trader Specific Requirements**

- An original copy of the V5 for the vehicle.
- An original copy of the certificate of insurance that covers the applicant to drive the vehicle.

### **Multi-site Static Trader Specific Requirements**

- A copy of a map of at least 1:1250 scale. The map should clearly identify each proposed site position by marking the site boundary with a red line.
- A photograph of each of the proposed sites.
- Permission from the landowner for each site.

- 3.2 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.
- 3.3 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or the applicant has any convictions, it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.
- 3.4 Applicants for a new Annual street trading consent should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)
- 3.5 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

### **Renewing Annual Consents**

- 3.6 Existing consent holders will be sent a reminder and a link to the appropriate application forms online, to the address that is held on file, well in advance of the expiry of the consent. However, please note that **responsibility for the renewal rests with the consent holder**.
- 3.7 **If you allow your consent to expire, no matter what the reason, it cannot be renewed. A consent that has expired does not exist, and therefore cannot be renewed.**

- 3.8 Each application form must be accompanied by the following supporting documentation:

**All Traders**

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 1 month old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.

**Static Trader Specific Requirements**

- A copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- A photograph of the proposed site.
- Permission from the landowner.

**Mobile Trader Specific Requirements**

- An original copy of the V5 for the vehicle.
- An original copy of the certificate of insurance that covers the applicant to drive the vehicle.

**Multi-site Static Trader Specific Requirements**

- A copy of a map of at least 1:1250 scale. The map should clearly identify each proposed site position by marking the site boundary with a red line.
- A photograph of each of the proposed sites.
- Permission from the landowner for each site.

- 3.9 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.
- 3.10 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.

3.11 Applications to renew an annual street trading consent should make their application not less than 28 days prior to the expiry of their existing consent to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

3.12 No street trading may take place during any period where an existing consent has expired and the renewal application process is incomplete. To trade without a consent is an offence.

### **New Single Use Consents (Static only)**

3.13 The Short Term Street Trading Consent application form may be downloaded from the website. Each application form must be accompanied by the following supporting documentation:

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 6 months old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.
- A copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- A photograph of the proposed site.
- Permission from the land owner.

3.14 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will inform all interested parties of the application. If all other permits/licences are in place it is likely that the Environmental Health Manager will grant the application.

3.15 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.

3.16 Applicants should give not less than 14 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk). If the application is likely to require a Committee Hearing, applicants are requested to give as much notice as possible.



- 3.17 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

**New Multiple Trader/Special Event Consents (Static only)**

- 3.18 The Multiple Trader/Special Event Street Trading Consent application form may be downloaded from the website. Each application form must be accompanied by the following supporting documentation:
- A receipt for the correct fee. (which should be made online on our website)
  - A recent Basic Disclosure Certificate (DBS) for the applicant. (not more than 6 months old)
  - A passport sized photograph of the applicant.
  - An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
  - A copy of a map of at least 1:1250 scale. The map should clearly identify the boundary of the proposed site, with the trading area outlined in red.
  - A photograph of the proposed site.
  - Permission from the land owner.
  - A complete list of traders attending the event. (following the standard format published on our website)
- 3.19 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.
- 3.20 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.
- 3.21 Applicants should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk). If the application is likely to require a Committee Hearing, applicants are requested to give as much notice as possible.
- 3.22 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

### **Plan of Location**

- 3.23 The applicant shall provide a map showing all streets and public areas in a radius of 0.25 miles from the proposed location.
- 3.24 The map should be an ordnance survey map or equivalent and will mark clearly the proposed trading site.
- 3.25 If a proposed street trading site is located on private land, including forecourts, satisfactory evidence must be provided to the Council that the permission of the landowner or lessee has been obtained.

### **Suitability of the Street Trading Unit**

- 3.26 The application must be accompanied by 3 colour photographs of the unit to be used.
- 3.27 Full details of any van, barrow, other vehicle or portable stall which the applicant intends to use must be supplied to the Council at the time of making the application. Arrangements shall be made for the van, barrow, other vehicle or portable stall to be inspected by a duly authorised officer prior to the application being considered if requested.

### **Suitability of the Applicant**

- 3.28 The Council will not grant a street trading consent to persons under the age of 17.
- 3.29 All applicants and 'assistants' are required to submit a recent Basic Disclosure Certificate. The certificate must meet the requirements of the application type at the time of submission. Applicants with previous convictions or cautions are not necessarily debarred from holding a consent unless the authority considers that the conviction renders them unsuitable. In making this decision the Council will consider the nature of the offence and how long it has been since the applicant was convicted.
- 3.30 **Each case will be dealt with on its own merits with the overriding consideration being the protection of the public.**
- 3.31 Applicants whose street trading activity includes the provision of food in any form, must be in possession of a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent.

### **Consultations**

- 3.32 Before a street trading consent is granted or renewed the Licensing Team will consult with the following agencies as considered appropriate:
- Police
  - Highways Department
  - Environmental Health

- 3.33 The Council shall consider any representation made in writing to the Authority in respect of any application. The applicant will be provided with a copy of any representation received and given an opportunity to comment before a final decision is taken.

### **Decision to Refuse or Revoke a Consent**

- 3.34 If the Council is unable to grant consent the applicant will be informed of the reason for the refusal within 21 days of the decision being made.
- 3.35 Failure to comply with the conditions of the consent described in Appendix 1 may result in the revocation or refusal to renew, a consent. In certain circumstances, formal action such as Prosecution may be the most appropriate course of action. Please refer to the Councils Enforcement Policy which can be found on our website. If a consent is revoked the holder will be informed of the reason for the revocation within 21 days of the decision being made.

### **Appeals**

- 3.36 There is no statutory right of appeal in respect of refusal or revocation of street trading consent, other than by means of a judicial review of the administrative action in reaching the decision. However, applicants also have recourse to the Council's complaints procedure if the applicant considers that a Council service has not been properly delivered. Full details are available on the internet at - [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

### **Permitted Trading Hours**

- 3.37 The Council generally will only permit street trading between 06:00 and 20:00. Any trading outside these hours will have to be approved by the Licensing & Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

### **Market days**

- 3.38 Those who have consent to trade in the town centres will not be able to do so on Market days on the Parade in Leamington, Market Square in Warwick, Abbey End in Kenilworth or any area designated by the Council from time to time. (Unless they trade as part of the General Market)

## **4: APPENDIX 1**

### **General Conditions**

#### **Definitions:**

<b>Street Trading:</b>	The selling or exposing or offering for sale any article (including a living thing) in a street
<b>Street:</b>	<ul style="list-style-type: none"><li>a) any road, footway, beach or other area to which the public have access without payment; and</li><li>b) a service area as defined in section 329 of the Highways Act 1980</li></ul>
<b>The Council:</b>	Warwick District Council
<b>Authorised Officer:</b>	An Officer employed by Warwick District Council and authorised by the Head of Service (Health and Community Protection) in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

#### **Consent Details**

1. A copy of the consent must be displayed prominently on the unit at the street trading site.
2. The consent holder shall not sell any type of food, goods or merchandise other than those specified in the consent.
3. The consent holder shall not trade outside the time and days permitted by the consent.
4. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
5. Touring consent holders shall not trade from the same location for more than 15 minutes (or until queuing customers have been served) at any one time. There is to be no return to any location within 2 hours of previous trading.
6. The consent is personal to the consent holder and shall not be assigned or transferred to another person or company without the appropriate notification of such transfer. (See application for consent transfer.)
7. The consent holder shall produce the consent if required to do so by a police officer or authorised officer at any time.

## Appendix 1

8. The consent may be revoked by the Council at any time for non-compliance with conditions or surrendered by the consent holder at any time.
9. The Consent Holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site in order to remain in control of trading for the majority of trading hours.
10. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

### General Conduct

11. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
12. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
13. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
14. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment must not be persistently audible in nearby residences.
15. The consent holder shall not trade from a vehicle parked in the lay-by outside the Royal Pump Rooms, the Parade, Leamington Spa, or in the entrance to the park opposite.
16. Applicants who wish to operate within the district **must** obtain a Basic Disclosure Certificate. A DBS check will have to be completed every year, or more frequently, at the discretion of the Council.

### Protection of Young People

17. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery or within a designated conservation area. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
18. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

## **Noise Nuisance**

19. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract customers to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

## **Visual Appearance**

20. Any vehicle/stall/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council. A high standard of presentation and appearance will be expected.

## **Health & Safety**

21. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
22. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
23. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
24. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.

## **Advertisements / Signage**

25. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.

## **Waste Management**

26. The consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
27. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

## **Additional Requirements for Food Operations**

28. When street trading includes the provision of food, the Food Business Operator (FBO) must ensure that any van/barrow/vehicle or stall is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable protective clothing and have received suitable hygiene training. In addition the FBO shall ensure that:

- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
- b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate
- c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
- d) an adequate supply of hot and/or cold potable water to be available
- e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
- f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
- g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
- h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable

Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.

**Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.**

Licensing and Regulatory Committee  
19<sup>th</sup> July 2021

**Title:** Proposed House to House Collections Policy

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Cllr Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Public consultation undertaken between 21<sup>st</sup> May 2021 and 2<sup>nd</sup> July 2021 (6 weeks).

Final Decision: Yes

Accessibility Checked: Yes

**Officer/Councillor Approval**

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	05.07.2021	Andrew Jones
Head of Service		Marianne Rolfe
CMT		
Section 151 Officer	06.07.2021	Mike Snow
Monitoring Officer	05.07.2021	Graham Leach
Finance	06.07.2021	Mike Snow
Portfolio Holder(s)	02.07.2021	Cllr Judith Falp



**1. Summary**

- 1.1. To present a new policy for House to House Collections which will be applicable to all applicants and request that it be forwarded to Council for adoption.

**2. Recommendation**

- 2.1. That the Licensing and Regulatory Committee agrees the House to House Collection Policy (attached as Appendix 1) and recommends adopting the policy to Council.

**3. Reasons for the Recommendation**

- 3.1. The Licensing Authority is required to authorise house to house collections under the House to House Collections Regulations 1947.
- 3.2. The proposed policy has been consulted upon and is attached as Appendix 1. There are two areas of the proposed policy, in respect of whether 'contactless' donations via a credit/debit card would be covered by the policy and whether WDC should ever deviate from the policy for any reason which require legal advice and these will be provided to the Committee at the meeting.

**4. Policy Framework**

**4.1. Fit for the Future (FFF)**

- 4.1.1. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

**4.2. FFF Strands**

**4.2.1 External impacts of proposal(s)**

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - The Licensing Authority recognises that residents within the District, need a safe environment to live, work and visit; and that safe and well run charity collections are important to the wellbeing of many people within the District.

**Money- Infrastructure, Enterprise, Employment** - The Licensing Authority recognises the importance of house to house collections to both national and local charities for fund raising purposes.

**4.2.2. Internal impacts of the proposal(s)**

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term – None.**

**4.3. Supporting Strategies**

- 4.3.1. Each strand of the FFF Strategy has several supporting strategies. The House to House Collection Policy will provide guidance, consistency and transparency to applicants and those making a donation to any charity. This contributes to the Council's strategy of making Warwick District a great place to live, work and visit.

**4.4. Changes to Existing Policies**

- 4.4.1. None.

**4.5. Impact Assessments**

- 4.5.1. An Equality Impact Assessment has been carried out.

**5. Budgetary Framework**

- 5.1. There are no budgetary implications arising from this Policy review.

**6. Risks**

- 6.1. There are no additional risks to the Council in adopting a House to House Collections Policy.

**7. Alternative Option(s) considered**

- 7.1. That no Policy is introduced.

**8. Background**

- 8.1 A 6 week public consultation on the proposed Policy was launched on 21<sup>st</sup> May 2021.
- 8.2 A summary of the responses received is attached as Appendix 2.



**Warwick District Council**

**House to House Collection Policy**  
**(House to House Collections Regulations 1947)**

**2021 – 2026**

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## **1: INTRODUCTION**

### **Objectives of the policy**

- 1.1 The purpose of the policy is to provide clear guidance for officers and Councillors on what matters should be taken into account when determining applications for House to House collections. It also sets out the reasonable expectations of applicants for charitable collections within Warwick District.
- 1.2 Central to the Council's policy are a number of key objectives which are:
  - To ensure members of the public know which charity they are donating to and to ensure all goods/monies collected are given to the correct charity.
  - To ensure all goods/monies collected are given to registered charities and unregistered organisations who prove their charitable purposes.
  - To facilitate well organised collections by bona fide charitable institutions and organisations.
  - To prevent unlicensed collections from taking place.

### **Purpose of the policy**

- 1.3 This document states Warwick District Council's policy on the regulation of House to House Collectors.
- 1.4 The policy is intended to ensure that those who wish to donate to charity through house to house collections, are able to do so, in good faith, knowing that a significant amount of the money or products they donate will directly benefit the charity.
- 1.5 This policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way. In considering each application for the grant of a house to house collection the guidance provided by this document will be applied.

### **Policy review**

- 1.6 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years.
- 1.7 The Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any major changes will be agreed by the Executive Committee.
- 1.8 Examples of 'major changes' are changes that are:
  - likely to have a significant effect on licence holders
  - likely to have a significant procedural effect on licence holders
  - likely to have a significant effect on the community

### **Contacting the team**

- 1.9 If after reading this booklet you require further information you are welcome to seek assistance from the Licensing Team.

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

Address: Licensing, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

### **The Law**

- 1.10 House to House Collections are currently regulated by the House to House Collections Act 1939 and the House to House Collections Regulations 1947 (as amended).

### **Definition of a House to House Collection**

- 1.11 A House to House collection is defined as 'the collection of either money or items directly from a person's property'.
- 1.12 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.

### **Exemptions to the Act**

- 1.13 A National Exemption Order is available to charities who have undertaken a high number of collections across local authority areas nationally in the preceding two years. These are issued directly to the charity by the Cabinet Office. A list of current Exemption Order holders can be found on the Gov.uk website.

## **2: LICENCE REQUIREMENTS**

### **Licensed areas**

- 2.1 For the purposes of House to House Collections, Warwick District Council is made up of five distinct areas. Leamington Spa, Whitnash, Warwick, Kenilworth and 'Rural'. Applications can be made for one area or a number of areas.
- 2.2 Warwick District Council will allow only **one collection to take place in any given area per day**. The collection areas are defined as Leamington Spa, Whitnash, Warwick and Kenilworth town centres and 'Rural' is defined as 'any other Village' inside the boundary.
- 2.3 Individual roads can be applied for and these roads will be specified on the collecting licence.
- 2.4 Collections may take place on any day of the week including Public Holidays.
- 2.5 The Licensing Authority may, in granting a licence, limit a collection to such streets or public places or such parts thereof as they think fit.

### **Number of collections**

- 2.6 The Council will only permit one House to House Collection in any one area of the District at any one given time and will only allow an organisation to collect on a maximum of six occasions per calendar year. Separate application forms will need to be completed.
- 2.7 Collections are booked on a first come, first served basis. This is to ensure that all charities whether large or small, have equal access to popular collection dates.
- 2.8 Where more than one organisation applies for a licence for the same date at the same time, then preference will be given to the more local organisation in order for the proceeds to benefit the local communities.

### **Number of collectors**

- 2.9 No persons may assist or take part in any collection without the written authority of the society, committee, or other body to whom a licence has been granted.
- 2.10 Written notice must be provided to us as either part of the application or prior to the collection, confirming details of all person(s) taking part in the collection. You must provide the collectors, name, address and date of birth, this is to enable us to check the suitability of the collectors and for enforcement.
- 2.11 When the agreed collectors change, we are happy to accept amendments to the collectors details prior to the street collection taking place.
- 2.12 Warwick District Council will restrict the number of people collecting monies to six per area.

- 2.13 No person under the age of 16 years old shall act or be permitted to act as a collector.

### **Collectors behaviour**

- 2.14 Failure to comply with the House to House Collection Regulations may result in future applications for a licence being refused. A copy of the regulations is attached as Appendix 1.
- 2.15 No collector shall importune any person to the annoyance of such person.
- 2.16 Collectors must adhere to the Code of Fundraising Practice set by the Fundraising Regulator. Failure to comply could result in the refusal of further licenses issued by Warwick District Council. This code can be viewed at [www.fundraisingregulator.org.uk](http://www.fundraisingregulator.org.uk)

### **Registered charities and charitable organisations**

- 2.17 Warwick District Council will consider applications from registered charities and a registered charity number will need to be provided on the application form.
- 2.18 Should the collection be on behalf of a registered charity then a letter of authority will be required which must accompany the application from the organisation.
- 2.19 Should a non registered organisation wish to submit an application, then they will have to provide information with regard to the charitable purpose (i.e. Relief of poverty, advancement of health or saving of lives) and show they benefit the public.

### **Exceptions**

- 2.20 Warwick District Council reserves the right to deviate from this policy where it is satisfied that there is sufficient cause for doing so.
- 2.21 Exceptions to this policy may be made for collections such as the Royal British Legion's Poppy Appeal and Santa collections within the District and when natural disasters have occurred such as a tsunami's and earthquake's.
- 2.22 Collections for Children in Need, Red Nose Day and Sports Relief are discouraged as the organisers themselves prefer sponsored events.



### 3: APPLICATIONS

#### Application process

- 3.1 Applications will be dealt with on a first come first served basis. Where more than one application is received at the same time, preference will be given to local charities.
- 3.2 The application form is available from either the Warwick District Council website or from the Gov.uk website.
- 3.3 Anyone wishing to conduct a house to house collection must complete the relevant application form. Applicants must supply information relating to:
  - Whether the collection is on behalf of a registered charity (if so, the registered charity number must be stated), and if so, the objectives of the charity as supplied to the Charity Commission.
  - A statement as to the aims of the collecting organisation as detailed in any literature.
  - Details of the history of the collecting organisation, i.e. when formed, names of trustees, directors, organisers etc.
  - Relevant accounts and financial statements of the collecting organisation.
  - A written agreement between the charity and the collecting organisation.
  - A declaration of any previous refusals for house to house collection licences.
  - A recent Basic Disclosure Certificate from the Disclosure and Barring Service pertaining to the Director of the collecting company.
- 3.4 The application form must clearly state how much the charity will receive as part of the collection, and include the proportion, as a percentage, of the monies retained by the collector in respect of the running costs of the collection.
- 3.5 A clear set of returns must also be supplied if the organisation has previously operated house to house collections within the Warwick District.
- 3.6 Applications are to be made in writing **no later than one calendar month** before the house to house collection is due to take place. This period may be reduced if the Council are satisfied that there are exceptional reasons for doing so.
- 3.7 Failure to provide all the necessary information may result in an application being delayed or refused.

#### Collection licences

- 3.8 Warwick District Council may, in granting a licence, limit the collection to such streets or areas or such parts thereof as it thinks fit and are specified on the licence.
- 3.9 The Council will only permit one house to house collection in any one area of the District at any one time and will only allow an organisation to collect on a maximum of six occasions per calendar year. Separate application forms will need to be completed for each separate collection.

## Appendix 1

- 3.10 The maximum duration of any collection will not exceed 4 weeks. No collection shall be made other than in accordance with time period specified on the licence.
- 3.11 No collection shall be made in a manner likely to inconvenience or annoy any person and no collector shall pester any person to the annoyance of such a person. No collection shall take place outside the hours of 9 am to 7 pm and doors should not be knocked at properties which display a sticker or sign which prohibits cold calling.
- 3.12 No person under the age of 16 years old shall act or be permitted to act as a collector.
- 3.13 Within one month after the date of any collection, the person to whom a licence has been granted shall forward to the Council:
- 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 member of the receiving charity in the form of a letter headed response.
  - A list of collectors.
  - A list of the amounts collected in each collecting box.

### **Applicant suitability**

- 3.14 Along with any application for a house to house collection licence, the applicant or the Director of the collection company (if different), will need to submit a recent Basic Disclosure Certificate from the Disclosure and Barring Service (not more than 6 months old).
- 3.15 When granting a licence for a house to house collection, the Council must be satisfied the applicant is a fit and proper person to hold a House to House Collection Licence.
- 3.16 In deciding the applicants fitness and propriety, and where there are convictions/cautions etc. the Council will take into consideration the following:
- Whether the conviction is relevant.
  - The seriousness of the offence.
  - In accordance with the Rehabilitation of Offenders Act 1974, the length of time since the offence occurred.
  - Whether there is a pattern of offending behaviour.
  - Whether that person's circumstances have changed since the offence occurred.
  - The circumstances surrounding the offence and the explanation offered by that person.

### **Grounds for refusal**

3.17 The Council may refuse to grant a licence or, where a licence has been granted, revoke that licence where it appears to the Council that:

- The total amount likely to be given for charitable purposes as the result of the collection (including any amount already given) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
- The remuneration by any person is excessive in relation to the total amount received or likely to be received.
- The applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he/she has been convicted in the United Kingdom of any of the offences specified in the Schedule to this Act, or has been convicted in any part of Her Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of an offence of a kind the commission of which would be likely to be facilitated by the grant of a Licence.
- The applicant or the holder of the Licence, in promoting a collection in respect of which a Licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised.
- The applicant or holder of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the foregoing paragraphs
- The grant of a licence would be likely to facilitate the commission of an offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.

3.18 In addition, any action taken as a result of non-compliance with the House to House Collections Regulations may also be grounds for refusal.

### **Financial considerations**

3.19 In order for the Council to be confident that the amount being given to charity is proportionate, the financial information provided on the application form and on any returns has to be detailed and accurate. Failure to provide detailed and accurate financial information may result in an application being refused or delayed.

3.20 In deciding whether the amount given to charity is proportionate the Council will use the following as a guideline:

- The Council understands there are costs associated with organising and carrying out a house to house collection; however, the costs associated with any one collection need to be balanced against the perception of the public that all of the items or money they donate will be given to charity. **Therefore, the Council will consider refusing an application where less than 70% of the value of the collection is being donated to the charity named in the application.**
  - It is also common practice for collectors to be paid by organisations to collect money and products. When determining the remuneration and whether it is excessive, the nature of the business and the overheads should be taken into account and balanced against the amount being given to the charity. The salaries received by directors and key employees should also be considered as part of this assessment. **Therefore, the Council will give consideration to refusing an application where the amount of remuneration is greater than 30% of the value of the collection.**
- 3.21 If returns have not been supplied to the Council after previous licensed collections then any further applications are likely to be refused.
- 3.22 Any person aggrieved by the refusal to grant a licence or by the revocation of a licence already granted, may appeal against the decision within fourteen days of the date of the notice of refusal or revocation, as shown on the notice. Any appeal must be made to the relevant Secretary of State.
- 3.23 Warwick District Council reserves the right to defer from this policy where it is satisfied that there is sufficient cause for doing so.

### **Enforcement**

- 3.24 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.
- 3.25 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Enforcement Policy.
- 3.26 The responsibility for the overall supervision of House to House Collections lies with the Head of Health and Community Protection.

### **Offences and penalties**

- 3.27 No collection shall be promoted without a licence being in place. The promotor will be liable on summary conviction to a fine not exceeding Level 3 on the Standard Scale. (currently £1,000).
- 3.28 No collection shall be made without a licence being in place. Any collector will be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale. (currently £200)
- 3.29 Any person who acts in contravention of any of the foregoing Regulations will be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale. (currently £200).

- 3.30 Unauthorised use of a collector's badge or certificate is an offence. Any unauthorised collector will be liable on summary conviction to a fine not exceeding Level 3 on the Standard Scale. (currently £1,000).
- 3.31 It is an offence for any collector to fail to provide their name and address details to a Police Officer on request. The collector will be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale. (currently £200).
- 3.32 It is an offence to knowingly or recklessly make any false declarations/statements in connection with any collection. Any promoter/collector will be liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding Level 3 on the Standard Scale (currently £1,000) or both.
- 3.33 This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.

## **APPENDIX 1**

### **HOUSE TO HOUSE COLLECTIONS ACT 1939**

#### **HOUSE TO HOUSE COLLECTIONS REGULATIONS 1947 (as amended)**

1. Title and extent
  - (a) These regulations may be cited as the House to House Collections Regulations 1947, and shall come into operation on the twenty-ninth day of December 1947.
  - (b) These regulations shall not extend to Scotland.
2. Interpretation
  - (1) In these regulations, unless the context otherwise requires –
    - 'The Act' means the House to House Collections Act 1939;
    - 'chief promoter', in relation to a collection, means a person to whom a licence has been granted authorising him to promote that collection or in respect of whom an order has been made directing that he shall be exempt from the provisions of subsection (2) or section 1 of the Act as respects that collection;
    - 'collecting box' means a box or other receptacle for monetary contributions, securely closed and sealed in such a way that it cannot be opened without breaking the seal;
    - 'licence' means a licence granted by a [licensing authority]<sup>1</sup> under section 2 of the Act;
    - 'order' means an order made by the Secretary of State under section 3 of the Act;
    - 'prescribed badge' means a badge in the form set out in the Fourth Schedule to these regulations;
    - 'prescribed certificate of authority' means a certificate in the form set out in the Third Schedule to these regulations;
    - 'receipt book' means a book of detachable forms of receipt consecutively numbered with counterfoils or duplicates correspondingly numbered;
    - 'street collection' means a collection or sale to which regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916, apply.
  - (2) A mark shall for the purposes of these regulations be deemed to have been made on a collecting box if it is made on a wrapper securely gummed to the collecting box.
  - (3) The Interpretation Act 1889 applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.
3. Local collections of a transitory nature

## Appendix 1

- (1) Every certificate granted under subsection (4) of section 1 of the Act shall be in the form set out in the First Schedule to these regulations, and sections 5 and 6 and subsections (4) and (5) of section 8 of the Act shall be set forth on the back of every such certificate.
- (2) Where such a certificate is granted as aforesaid, the provisions of these regulations shall not apply, in relation to a collection made for the purpose specified on the certificate, within the locality and within the period so specified, to the person to whom the certificate is granted or to any person authorised by him to act as a collector for the purposes of that collection.

### 4. Applications for licences and orders

- (1) An application for a licence shall be in the form set out in the Second Schedule to these regulations, and shall give the particulars there specified.
- (2) An application for a licence or for an order shall be made not later than the first day of the month preceding that in which it is proposed to commence the collection;

Provided that the [licensing authority]' or, as the case may be, the Secretary of State may grant the application notwithstanding that it was not made within the time required by this paragraph if satisfied that there are special reasons for so doing.

### 5. Responsibility of promoters as respects collectors

- (1) Every promoter of a collection shall exercise all due diligence –
  - (a) to secure that persons authorised to act as collectors for the purposes of the collection are fit and proper persons; and
  - (b) to secure compliance on the part of persons so authorised with the provisions of these regulations.

### 6. Certificates of authority, badges, collecting boxes and receipt books

- (1) No promoter of a collection shall permit any person to act as a collector, unless he has issued or caused to be issued to that person –
  - (a) a prescribed certificate of authority duly completed (except as regards the signature of the collector) and signed by or on behalf of the chief promoter of the collection;
  - (b) a prescribed badge, having inserted therein or annexed thereto a general indication of the purpose of the collection; and
  - (c) if money is to be collected, a collecting box or receipt book marked with a clear indication of the purpose of the collection and a distinguishing number, which indication and number shall, in the case of a receipt book, also be marked on every receipt contained therein in addition to the consecutive number of the receipt.
- (2) Every promoter of a collection shall exercise all due diligence to secure –

## Appendix 1

- (a) that no prescribed certificate of authority, prescribed badge, collecting box or receipt book is issued, unless the name and address of the collector to whom it is issued have been entered on a list showing in respect of any collecting box or receipt book the distinguishing number thereof; and
  - (b) that every prescribed certificate of authority, prescribed badge, collecting box or receipt book issued by him or on his behalf is returned when the collection is completed or when for any other reason a collector ceases to act as such.
- (3) In the case of a collection in respect of which a licence has been granted –
  - (a) every prescribed certificate of authority shall be given on a form obtained from Her Majesty's Stationery Office, and every prescribed badge shall be so obtained; and
  - (b) every prescribed certificate of authority shall be authenticated, and the general indication on every prescribed badge of the purpose of the collection shall be inserted therein or annexed thereto. in a manner approved by the [licensing authority] for the area in respect of which the licence was granted.
- 7. Duties of collectors in relation to certificates and badges  
Every collector shall –
  - (a) sign his name on the prescribed certificate of authority issued to him and produce it on the demand of any police constable or of any occupant of a house visited by him for the purpose of collection;
  - (b) sign his name on the prescribed badge issued to him and wear the badge prominently whenever he is engaged in collecting; and
  - (c) keep such certificate and badge in his possession and return them to a promoter of the collection on replacement thereof or when the collection is completed or at any other time on the demand of a promoter of the collection.
- 8. Age limit  
No person under the age of 16 years shall act or be authorised to act as a collector of money.
- 9. Importuning  
No collector shall importune any person to the annoyance of such person, or remain in, or at the door of, any house if requested to leave by any occupant thereof.
- 10. Collection of money
  - (1) Where a collector is collecting money by means of a collecting box, he shall not receive any contribution save by permitting the person from



## Appendix 1

whom it is received to place it in a collecting box issued to him by a promoter of the collection.

- (2) Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter on a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution.

### 11. Duty of collectors to return boxes and books

Every collector, to whom a collecting box or receipt book has been issued, shall –

- (a) when the collecting box is full or the receipt book is exhausted, or
- (b) upon the demand of a promoter of the collection, or
- (c) when he does not desire to act as a collector, or
- (d) upon the completion of the collection,

return to a promoter of the collection that collecting box with the seal unbroken or that receipt book with a sum equal to the total amount of the contributions (if any) entered therein.

### 12. Examination of boxes and books

- (1) Subject as provided in paragraph (2) of this regulation, a collecting box when returned shall be examined by, and, if it contains money, be opened in the presence of, a promoter of the collection and another responsible person.
- (2) Where a collecting box is delivered unopened to a bank, it may be examined and opened by an official of the bank in the absence of a promoter of the collection.
- (3) As soon as a collecting box has been opened, the contents shall be counted and the amount shall be entered with the distinguishing number of the collecting box on a list, which shall be certified by the persons making the examination.
- (4) Every receipt book when returned and all sums received therewith shall be examined by a promoter of the collection and another responsible person, and the amount of the contributions entered in the receipt book shall be checked with the money and entered with the distinguishing number of the receipt book on a list, which shall be certified by the persons making the examination.

### 13. Provision for envelope collections

- (1) Where the promoter of a collection to whom an order has been granted informs the Secretary of State that he desires to promote an envelope

collection, and the Secretary of State is of opinion that the collection is for a charitable purpose of major importance and is suitably administered, the Secretary of State may, if he thinks fit, give permission for the promotion of an envelope collection.

- (2) Where an envelope collection is made in accordance with this regulation –
- (a) every envelope used shall have a gummed flap by means of which it can be securely closed;
  - (b) no collector shall receive a contribution except in an envelope which has been so closed; and
  - (c) these regulations shall have effect subject to the following modifications:-
    - i. sub-paragraph (c) of paragraph (1) of regulation 6 shall not apply;
    - ii. regulation 10 shall not apply;
    - iii. regulations 11 and 12 shall have effect as if each envelope in which a contribution is received were a collecting box;
    - iv. in regulation 11 for the words 'with the seal unbroken' there shall be substituted the word 'unopened';
    - v. in paragraph (3) of regulation 12 for the words 'As soon as a collecting box has been opened' there shall be substituted the words 'As soon as the envelope has been opened' and the words 'with the distinguishing number of the collecting box' shall be omitted.
- (3) In this regulation 'envelope collection' means a collection made by persons going from house to house leaving envelopes in which money may be placed and which are subsequently called for.

14. Promoters to furnish accounts

- (1) The chief promoter of a collection in respect of which a licence has been granted shall furnish an account of the collection to the [licensing authority] by which the licence was granted within one month of the expiry of the licence:
- Provided that if licences are granted to the same person for collections to be made for the same purpose in more than one [licensing area]<sup>1</sup> a combined account of the collections made in all or any of those [licensing areas]' may, by agreement between the chief promoter and the respective [licensing authorities]' be made only to such of the respective [licensing authorities]' as may be so agreed.
- (2) The chief promoter of a collection in respect of which an order has been made shall furnish an account annually to the Secretary of State so long as the order remains in force, and if the order is revoked a final account shall be furnished within three months of the date of the revocation of the order.

## Appendix 1

- (3) The [licensing authority]' or the Secretary of State may extend the period within which an account is required to be furnished to the authority or to him, as the case may be, if satisfied that there are special reasons for so doing.
  - (4) The chief promoter of a collection which is made in connection in whole or in part with a street collection of which an account is required to be furnished to a [licensing authority]' by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, may, if the said [licensing authority]' agrees, combine the accounts of the house to house collection, in so far as it is made in connection with the street collection, with the accounts of the street collection, and the amount so included in the combined account shall not be required to form part of the account required to be furnished under paragraph (1) or, as the case may be, paragraph (2) of this regulation, so, however, that in the case of an account furnished under the said paragraph (2) the account shall show, in addition to an account in respect of moneys received from house to house collections not made in connection with a street collection, a statement showing the total proceeds of all combined collections, the total expenses and the balance applied to charitable purposes.
15. Form and certification of accounts

The account required by the preceding regulation –

  - (a) where money has been collected, shall be furnished in the form set out in the Fifth Schedule to these regulations and, where property has been collected and sold, shall be furnished in the form set out in the Sixth Schedule to these regulations, and in either case shall be certified by the chief promoter of the collection and by an independent responsible person as auditor; and
  - (b) where property (other than money) has been collected and given away or used, shall be furnished in the form set out in the Seventh Schedule to these regulations and shall be certified by the chief promoter and by every person responsible for the disposal of the property collected.
16. Vouching of accounts
  - (1) Every account furnished under paragraph (a) of regulation 15 of these regulations shall be accompanied by vouchers for each item of the expenses and application of the proceeds and, in the case of a collection of money, by every receipt book used for the purposes of the collection and by the list referred to in paragraph (2) of regulation 6 of these regulations and the list referred to in regulation 12 of these regulations.
  - (2) Paragraph (1) of this regulation shall not apply to an account certified by an auditor who is a member of an association or society of accountants incorporated at the date of these regulations or is on other grounds accepted as competent by the authority to which the account is submitted, but where in such a case the vouchers, receipt books and lists mentioned in the said paragraph (1) are not submitted with an

## Appendix 1

account, the chief promoter shall ensure that they are available for three months after the account is submitted and shall, if the authority to which the account was submitted so requires at any time within that period, submit them to that authority.

### 17. Disposal of disused certificates of authority, etc.

The chief promoter of a collection shall exercise all due diligence to secure that all forms of prescribed certificates of authority and prescribed badges obtained by him for the purposes of the collection are destroyed when no longer required in connection with that collection or in connection with a further collection which he has been authorised to promote for the same purpose.

<sup>1</sup> Substituted by the Local Authorities (Miscellaneous Provisions) (No 2) Order 1974 (SI 1974 No 595)

<sup>2</sup> Amended by the House-to-House Collections Regulations 1963 (SI 1963 No 684).

## Appendix 2

### PUBLIC CONSULTATION RESPONSES

#### Alterations to Draft House to House Collections Policy:

1. Date: 24<sup>th</sup> May 2021  
**Comment from resident:** 'I would like to see priority given to local charities where money raised stays in the local area'. (Paragraph 3.1)  
**Action: No action required, in line with proposed policy.**
2. Date: 26<sup>th</sup> May 2021  
**Comment from resident:** 'I am unhappy about the "get out" clause which permits WDC to ignore the policy if it so decides. The policy should always be adhered to.' (Paragraph 2.20)  
**Response:** Officers are often advised by Legal services that policies should not be 'slavishly adhered to'. **Legal Services have been part of the development process for this policy and have not commented on this statement.**  
**Action: Legal advice requested.**
3. Date: 8<sup>th</sup> June 2021  
**Comment from Chartered Institute of Fundraising:**  
2.2- "Only one collection to take place in any of your five areas per day." We feel that this limits opportunities for charities to fundraise as the Leamington Spa and Warwick areas will likely be more popular than others. We therefore kindly ask you to consider splitting each of these two areas in half, creating four prime areas where fundraisers can carry out door-to-door collections.  
**Response:** Officers feel that further splitting the District up will complicate the processing and issuing of Licences. This is a statutory service that we cannot make a charge for, therefore any additional processing time is 'funded' by the residents of the district.  
**Action: For discussion by members.**
4. Date: 8<sup>th</sup> June 2021  
**Comment from Chartered Institute of Fundraising:**  
2.8- "If more than one organisation applies for a licence for the same date at the same time, then preference will be given to the more local organisation." Although we support local organisations and recognise their role in enhancing communities, we have found that many do not have the capacity to carry out door-to-door collections. Equally, we feel this approach has the unintended consequence of limiting opportunities to donate to international development charities, such as Oxfam or ActionAid, who are raising money to eliminate extreme poverty. We therefore feel that you should remain with your position in point 2.7- collections should be booked on a first come, first serve basis; we agree that this gives both large and small organisations equal access to popular dates.  
**Response:** Officers feel that in the very rare circumstance that 2 charities apply at the same time (for the same dates) the local charity should be given priority. As the respondent states in the comment, most local charities would struggle to have the capacity to run a house to house collection.  
**Action: For discussion by members.**
5. Date: 8<sup>th</sup> June 2021  
**Comment from Chartered Institute of Fundraising:**

2.16- "The PFRA no longer exists. Equally, we no longer have a Fundraising Face to Face Activity Code. We therefore recommend you update this point to require that all fundraisers follow the Code of Fundraising Practise, set by the Fundraising Regulator."

**Action: Changes made.**

6. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

2.21- "Exceptions to this policy may be made for collections such as the Royal British Legion's Poppy Appeal and Santa collections". We suggest that you clarify which activities would qualify as exceptions to help charities better prepare their license applications.

**Response:** The full paragraph reads *"Exceptions to this policy may be made for collections such as the Royal British Legion's Poppy Appeal and Santa collections within the District and when natural disasters have occurred such as a tsunami's and earthquake's."* Officers believe that this phrase is adequate as to be too prescriptive will lead to further complication and pre-application involvement from the team.

**Action: For discussion by members.**

7. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.8- "Warwick District Council may, in granting a licence, limit the collection to such streets or areas or such parts thereof as it thinks fit and are specified on the licence". In order to help fundraisers better plan their activities, we would suggest giving further clarification on how and why this would occur. Similarly, we hope that if you were to limit which streets a collection could take place on, you would do so in consultation with the charity or agency to avoid excessively restricting fundraising.

**Response:** Officers have never had to restrict a collection to date but feel that there could be times where they may need to. For example, the Commonwealth Games will be visiting various parts of the District in 2022 and there may be significant disruption to residential streets at times. Restricting licences may be necessary to ensure that security is not compromised at any time.

**Action: For discussion by members.**

8. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.11- "No collection shall take place outside the hours of 9 am to 7 pm." Our members regularly carry out collections until 9pm and the Code of Fundraising Practise supports this. We therefore ask that you update this, extending the collection hours to 9pm in line with current best practise.

**Response:** Officers feel that residents should not be approached beyond 7pm (especially in the winter months).

**Action: For discussion by members.**

9. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.20- "The Council will consider refusing an application where less than 70% of the value of the collection is being donated to the charity named in the application" and "The Council will give consideration to refusing an application where the amount of remuneration is greater than 30% of the value of the collection." We agree with you that the cost of carrying out a collection must be proportional to the amount of money that goes to its cause, however,

these statements are only applicable to cash collections and do not take into account the difficulty of calculating the value of direct debits. As these are regular donations that can last a number of years, it is impossible to determine their precise value at the end of a collection. Given that direct debits are now the most common public fundraising product, we recommend that you update this to recognise that it will not be possible to immediately demonstrate their value.

**Response:** The issue raised is for direct debit collections, which cannot be included in this policy.

**Action: No action taken.**

10. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.21- "If returns have not been supplied to the Council after previous licensed collections, then any further applications are likely to be refused." Although this is a legal requirement, it pre-dates direct debit collections meaning that fundraisers will not be able to accurately report their returns. Instead, we recommend you ask for confirmation of how many direct debits were secured and their monthly value. Eg: 10 direct debits, each giving £5 a month.

**Response:** The issue raised is for direct debit collections, which cannot be included in this policy.

**Action: No action taken.**

11. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.3- "Applicants must supply information relating to... A written agreement between the charity and the collecting organisation." We feel it is unclear whether you are asking charities and their partners need to provide a written acknowledgement that they have an agreement, or if you would like a copy of the contract between them. With this in mind, we recommend you clarify the wording, noting that it is not possible to share contracts as they are commercially sensitive information.

**Response:** Officers have received many forms of 'written agreement' in the past and believe that this form of words allows applicants to provide suitable proof of their status without limiting or restricting them in any way.

**Action: For discussion by members.**

12. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.13- "The person to whom a licence has been granted shall forward to the Council... a list of the amounts collected in each collecting box." Our members do not carry collection boxes, instead using cashless technologies such as QR Codes and recurring payment software. We therefore ask that you acknowledge this requirement is only applicable to cash collections.

**Response:** Section 10 of the House to House Collections Regulations 1947 refers to the "Collection of money". Paragraph (2) states that "*Where a collector is collecting money by other means than a collecting box, he shall, upon receiving a contribution from any person, forthwith and in the presence of such person enter a form of receipt in a receipt book issued to him by a promoter of the collection and on the corresponding counterfoil or duplicate the date, the name of the contributor and the amount contributed, and shall sign the form of receipt, the entries and signature being in ink or indelible pencil, and shall hand the form of receipt to the person from whom he received the contribution*", therefore officers feel that

## Appendix 2

this part of the policy could be equally applied to one off 'contactless' activities, but would not be applicable to 'recurring payments' such as direct debit orders.

**Action: Legal advice requested.**

13. Date: 8<sup>th</sup> June 2021

**Comment from Chartered Institute of Fundraising:**

3.17- "The Council may refuse to grant a licence or, where a licence has been granted, revoke that licence where it appears to the Council that... the remuneration by any person is excessive". Some fundraisers are paid commission based on the total value of the first year of the direct debit payments they secured, making it hard to determine what if their income is at the end of a collection. We would therefore like clarification on what would be considered excessive remuneration, acknowledging that direct debits are now the most common public fundraising product.

**Response:** The issue raised is for direct debit collections, which cannot be included in this policy.

**Action: No action taken.**



Licensing and Regulatory Committee  
19<sup>th</sup> July 2021

**Title:** Proposed Street Collections Policy

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Cllr Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Public consultation undertaken between 21<sup>st</sup> May 2021 and 2<sup>nd</sup> July 2021 (6 weeks).

Final Decision: Yes

Accessibility Checked: Yes

**Officer/Councillor Approval**

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	05.07.2021	Andrew Jones
Head of Service		Marianne Rolfe
CMT		
Section 151 Officer	06.07.2021	Mike Snow
Monitoring Officer	05.07.2021	Graham Leach
Finance	06.07.2021	Mike Snow
Portfolio Holder(s)	02.07.2021	Cllr Judith Falp

**1. Summary**

- 1.1. To present a new policy for Street Collections which will be applicable to all applicants and request that it be forwarded to Council for adoption.

**2. Recommendation**

- 2.1. That the Licensing and Regulatory Committee agrees the Street Collection Policy (attached as Appendix 1) and recommends adopting the policy to Council.

**3. Reasons for the Recommendation**

- 3.1. The Licensing Authority is required to authorise street collections under the Police, Factories etc. (Miscellaneous Provisions) Act 1916.
- 3.2. The proposed policy has been consulted upon and is attached as Appendix 1. There are two areas of the proposed policy, in respect of whether 'contactless' donations via a credit/debit card would be covered by the policy and whether WDC should ever deviate from the policy for any reason which require legal advice and these will be provided to the Committee at the meeting.

**4. Policy Framework**

**4.1. Fit for the Future (FFF)**

- 4.1.1. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

**4.2. FFF Strands**

**4.2.1 External impacts of proposal(s)**

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - The Licensing Authority recognises that residents within, and visitors to the District, need a safe environment to live, work and visit; and that safe and well run charity collections are important to the wellbeing of many people within the District.

**Money- Infrastructure, Enterprise, Employment** - The Licensing Authority recognises the importance of street collections to both national and local charities for fund raising purposes.

**4.2.2. Internal impacts of the proposal(s)**

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term – None.**

**4.3. Supporting Strategies**

- 4.3.1. Each strand of the FFF Strategy has several supporting strategies. The Street Collection Policy will provide guidance, consistency and transparency to applicants and those making a donation to any charity. This contributes to the Council's strategy of making Warwick District a great place to live, work and visit.

**4.4. Changes to Existing Policies**

- 4.4.1. None.

**4.5. Impact Assessments**

- 4.5.1. An Equality Impact Assessment has been carried out.

**5. Budgetary Framework**

- 5.1. There are no budgetary implications arising from this Policy review.

**6. Risks**

- 6.1. There are no additional risks to the Council in adopting a Street Collections Policy.

**7. Alternative Option(s) considered**

- 7.1. That no Policy is introduced.

**8. Background**

- 8.1 A 6 week public consultation on the proposed Policy was launched on 21<sup>st</sup> May 2021.
- 8.2 A summary of the responses received is attached as Appendix 2.



**Warwick District Council**

**Street Collection Policy**

**Police, Factories etc. (Miscellaneous Provisions) Act 1916**

**2021 – 2026**

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## **1: INTRODUCTION**

### **Objectives of the policy**

- 1.1 The purpose of the policy is to provide clear guidance for officers and Councillors on what matters should be taken into account when determining applications for Street collections. It also sets out the reasonable expectations of applicants for charitable collections within Warwick District.
- 1.2 Central to the Council's policy are a number of key objectives which are:
  - To ensure members of the public know which charity they are donating to and to ensure all monies collected are given to the correct charity.
  - To ensure all monies collected are given to registered charities and unregistered organisations who prove their charitable purposes.
  - To ensure visitors to the town centres of Warwick District Council are not constantly being approached to donate monies to a number of charities on the same date and to ensure they are approached in a civil, polite and orderly manner.

### **Purpose of the policy**

- 1.3 This document states Warwick District Council's policy on the regulation of Street Collectors.
- 1.4 The policy is intended to ensure that those who wish to donate to charity through street collections, are able to do so, in good faith, knowing that a significant amount of the money they donate will directly benefit the charity.
- 1.5 This policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way. In considering each application for the grant of a street collection the guidance provided by this document will be applied.

### **Policy review**

- 1.6 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years.
- 1.7 The Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any major changes will be agreed by the Executive Committee.
- 1.8 Examples of 'major changes' are changes that are:
  - likely to have a significant effect on permit holders
  - likely to have a significant procedural effect on permit holders
  - likely to have a significant effect on the community

## **Contacting the team**

- 1.9 If after reading this booklet you require further information you are welcome to seek assistance from the Licensing Team.

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

Address: Licensing, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

## **The Law**

- 1.10 Street Collections are covered by regulations made under the Police, Factories etc. (Miscellaneous Provisions) Act 1916 as amended by section 251, schedule 29 of the Local Government Act 1972.
- 1.11 5(1) of the Police, Factories & etc. (Miscellaneous Provisions) Act 1916 states "each of the authorities specified in subsection (1A) may make regulations with respects to places where and the conditions under which person may be permitted in any street or public place, within their area, to collect money or sell articles for the benefit of charities or other purposes, and any person who acts in contravention of any such regulation shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale or in the case of a second or subsequent offence not exceeding level 1 on the standard scale".
- 1.12 1(A) the authorities referred to in subsection (1) above are (c) the council of each district. The Act enables the local authorities to attach any conditions to a street collection permit where necessary to ensure the collection is undertaken fairly and in an orderly manner.

## **Definition of a street collection**

- 1.13 A street collection is defined as a collection of monies that takes place on a "street" this includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not (as defined in section 5(4) Police, Factories & etc (Miscellaneous Provisions) Act 1916) or other area to which the public have access without payment. The Courts have confirmed that any land located away from the highway which the public can access without payment, including privately owned land, is capable of being a street for these purposes. For example, this could include car parks, trading estates, forecourts, open spaces etc. However, the Council takes the view that street collection controls would not normally apply within buildings.

## 2: PERMIT REQUIREMENTS

### Permitted areas

- 2.1 For the purposes of Street Collections, Warwick District Council is made up of five distinct areas. Leamington Spa, Whitnash, Warwick, Kenilworth and 'Rural'. Applications can be made for one area or a number of areas. One area is advisable as this allows other collectors to collect in other areas on the same day.
- 2.2 Warwick District Council will allow only **one collection to take place in any given area per day**. The collection areas are defined as Leamington Spa, Whitnash, Warwick and Kenilworth town centres and 'Rural' is defined 'any other Village' inside the boundary.
- 2.3 Individual roads can be applied for and these roads will be specified on the collecting permit.
- 2.4 Collections may take place on any day of the week including Public Holidays.
- 2.5 The Licensing Authority may, in granting a permit, limit a collection to such streets or public places or such parts thereof as they think fit.
- 2.6 No collection shall be made in any part of the carriageway of any street which has a footway, except where the collection or sale has been authorised to be held in connection with a procession/race. For example; Carnivals, Cycle Races, Running events and Santa/Christmas Events.
- 2.7 No collection shall be made in any street or public place to the obstruction or annoyance of any person in such street or public space.

### Number of collections

- 2.8 Warwick District Council will allow no more than 1 collection per calendar year (January to December) for any one organisation or individual.
- 2.9 Collections are booked on a first come, first served basis. This is to ensure that all charities whether large or small, have equal access to popular collection dates.
- 2.10 Where more than one organisation applies for a permit for the same date at the same time, then preference will be given to the more local organisation in order for the proceeds to benefit the local communities. Priority will be given to charities based in and around Warwickshire.

### Number of collectors

- 2.11 No persons may assist or take part in any collection without the written authority of the society, committee, or other body to whom a permit has been granted.
- 2.12 Written notice must be provided to us as either part of the application or prior to the collection, confirming details of all person(s) taking part in the collection. You must provide the collectors, name, address and date of birth, this is to enable us to check the suitability of the collectors and for enforcement.



- 2.13 When the agreed collectors change, we are happy to accept amendments to the collectors details prior to the street collection taking place.
- 2.14 Warwick District Council will restrict the number of people collecting monies (at any one time) to six per area.
- 2.15 No person under the age of 16 years old shall act or be permitted to act as a collector.

### **Collectors behaviour**

- 2.16 Failure to comply with the Street Collection Regulations may result in future applications for a permit being refused. A copy of the regulations are attached as Appendix 1.
- 2.17 No collector shall importune any person to the annoyance of such person.
- 2.18 Any person acting as a collector in a street or public place shall occupy a stationary position at some place on the footway. Not more than two persons shall act as collectors at the same place and no person shall collect money within 25 metres of the place where any other person(s) is/are collecting.
- 2.19 No leaflets or similar shall be handed out during the collection.
- 2.20 Every collector shall carry a collecting box.
- 2.21 All collecting boxes shall be numbered sequentially with a different number for each box used and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.
- 2.22 All money received by a collector from contributors shall immediately be placed in a collecting box.
- 2.23 Every collector shall deliver, unopened, all collecting boxes in his/her possession to a promoter.
- 2.24 A collector shall not carry or use any collecting box, receptacle or tray which does not display prominently the name of the charity/fund for which they are collecting for, nor carry or use any box or other receptacle(s) which are not duly numbered.
- 2.25 No payment or reward shall be made or given to any collector directly or indirectly, or to any person connected with the promotion or conduct of a collection, 100% of the monies collected must be given to the society/charity for which the collection was obtained for.
- 2.26 Collectors who are also members of the Public Fundraising Regulatory Association (PFRA) must adhere to the Institute of Fundraising Face to Face Activity Code of Fundraising Practice on face-to-face fundraising and any interpretation of the code made by the PFRA. Failure to comply could result in the refusal of further permits issued by Warwick District Council. This code can be viewed at [www.pfra.co.uk](http://www.pfra.co.uk).
- 2.28 Warwick District Council take the welfare of animals seriously therefore if you wish to use/bring an animal(s) to a collection you will need to supply a copy of

the animals Performing Animal Licence with your application form. Guide or Assistance dogs are exempt from this restriction.

### **Registered charities and charitable organisations**

- 2.29 Warwick District Council will consider applications from registered charities and a registered charity number will need to be provided on the application form.
- 2.30 Should the collection be on behalf of a registered charity then a letter of authority will be required which must accompany the application from the organisation.
- 2.31 Should a non registered organisation wish to submit an application, then they will have to provide information with regard to the charitable purpose (i.e. Relief of poverty, advancement of health or saving of lives) and show they benefit the public.

### **Exceptions**

- 2.32 Warwick District Council reserves the right to deviate from this policy where it is satisfied that there is sufficient cause for doing so.
- 2.33 Exceptions to this policy may be made for collections such as the Royal British Legion's Poppy Appeal and Santa collections within the District and when natural disasters have occurred such as a tsunami or earthquake.
- 2.34 Collections for Children in Need, Red Nose Day and Sports Relief are discouraged as the organisers themselves prefer sponsored events.

### 3: APPLICATION PROCESS

#### Application process

- 3.1 No collection of money shall be made in any street or public place within Warwick District unless the person, society, committee or other body of persons responsible for such collection have obtained a permit from Warwick District Council for such a collection.
- 3.2 Application forms can be obtained from the Warwick District Council website, and an example is attached as Appendix 2.
- 3.3 Anyone wishing to conduct a street collection must complete the relevant application form. Applications must be submitted in writing **no less than one month before the date on which the proposed collection is due to take place.** (The application period of one month may be reduced if we are satisfied that there are special reasons for doing so.)
- 3.4 Applicants must supply information relating to:
  - the name of the society, committee or other body of persons responsible for the collection including their address and telephone number. This could be the head office address for the Society.
  - the name of the persons making the application for the permit, including their position within the society, their address, telephone number and date of birth.
  - the relationship between the Charity and the person making the application.
  - the name of the charity for which the collection will benefit, the registered Charity number, the address and telephone number of the Administrative Centre of the Charity, the name of the secretary, together with the objects of the Charity or Fund.
  - the dates, times and localities you wish to collect and also requests details of any deductions that may be made for expenses from the collection.
  - whether they intend to have volunteers or collectors and requests their full name, address, date of birth and if they have ever been convicted of offences involving dishonesty.
  - the name and address of the Accountant responsible for processing the monies collected including the details of the Accountant's qualifications.
- 3.5 The application form must be signed and dated by the person making the application.
- 3.6 Failure to complete the application form and provide the relevant documentation may result in your application been rejected.
- 3.7 Officers have delegated powers to grant an application where all of the criteria set out in this policy are met. Each permit will include a copy of the Warwick District Council Street Collection Regulations, a copy of which is attached as Appendix 1.

### **Permit fee**

- 3.8 There is no fee for a Street Collection permit.

### **Further information**

- 3.9 Warwick District Council may request (at the time of application or later) that additional information is provided, as may be considered relevant for the purpose of considering the application.
- 3.10 Failure to provide such information may result in the application being rejected.

### **Refusal of an application - hearing procedure**

- 3.11 Where Licensing are unable to issue a permit to an applicant (for example, if the applicant has a conviction for dishonesty) then the application would need to be determined by the Licensing and Regulatory Panel.
- 3.12 Where an application is to be considered by the Licensing and Regulatory Panel the applicant will be notified of the time and date of the hearing.
- 3.13 Prior to the hearing, all parties will be supplied with a copy of the report. The report will contain a summary of the application, representations and any other relevant information.
- 3.14 At the hearing, all parties will have the opportunity to address the Licensing and Regulatory Panel and ask questions of fact of other parties. The Licensing and Regulatory Panel may also ask questions of all parties that they feel relevant to the determination process.
- 3.15 The Licensing and Regulatory Panel will communicate their decision at the end of the hearing and all parties will receive written confirmation of the decision within 7 days.

### **Proceeds statement form**

- 3.16 Within one month after the date of any collection or sale the person, society, committee or other body of persons responsible for the collection shall forward to Warwick District Council's Licensing Authority a statement in the form set out in the Schedule to the Regulations. If there are multiple collections in the same month, the return must be submitted to the Licensing Authority within one month of the final collection. This form will be attached to the permit when it is granted (an example is attached as Appendix 3).
- 3.17 The proceeds statement form must be certified by the auditor of the society or by some independent responsible person.
- 3.18 This statement of returns must detail the amount received and the expenses incurred in connection with such collection.

### **Enforcement**

- 3.19 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also the responsible members of the trade.

## Appendix 1

- 3.20 In pursuing its objective of encouraging responsible businesses, the Council will operate a proportionate enforcement regime in accordance with the Enforcement Policy.
- 3.21 The responsibility for the overall supervision of Street Collections lies with the Head of Health and Community Protection.

### **Offences and penalties**

- 3.22 No collection shall be made except upon the day and between the hours stated in the permit.
- 3.23 This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.
- 3.24 Any person who acts in contravention of any of the foregoing Regulations will be liable on summary conviction to a fine not exceeding Level 1 on the Standard Scale. (currently £200).

#### **4: DEFINITIONS**

<i>Collection</i>	means a collection of money for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly
<i>Promoter</i>	means a person who causes others to act as collectors
<i>Licensing Authority</i>	means Warwick District Council
<i>We</i>	means Warwick District Council
<i>Permit</i>	means a permit for a collection
<i>Contributor</i>	means a person who contributes to a collection for the benefit of charitable or other purposes:
<i>Collecting Box</i>	means a box or other receptacle for the reception of money from contributors.

## **APPENDIX 1**

### **WARWICK DISTRICT COUNCIL**

#### **Regulations made by Warwick District Council with regard to street collections.**

In pursuance of section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916, as amended by section 251 and Schedule 29 to the Local Government Act 1972, Warwick District Council hereby makes the following regulations with respect to the places where and the conditions under which persons may be permitted in any street or public place within Warwick District to collect money or sell articles for the benefit of charitable or other purposes:

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 the word "collector" shall be construed accordingly;  
  
"Promoter" means a person who causes others to act as collectors;  
  
"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 charitable or other purposes;  
  
"Collecting box" means a box or other receptacle for the reception of money from contributors.
2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within Warwick 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 make the collection:  
  
Provided that the Warwick District Council may reduce the period of one month if satisfied that there are special reasons for doing so.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The Warwick District Council may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6.
  - a) No person may assist or take part in any collection without the written authority of a promoter.
  - b) Any person authorised under paragraph (1) above shall produce such written authority forthwith for inspection on being requested to do so by a duly authorised officer of the Warwick District Council 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 Warwick District Council 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 a procession.
8. No collection shall be made in a manner likely to inconvenience or annoy any person.
9. No collector shall not importune any person to the annoyance of such person.

## Appendix 1

### 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 Warwick District Council 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.

Provided that the Warwick District Council may permit persons of fourteen years of age or more to act as collectors where it is satisfied that it is reasonable in the circumstances of a particular collection and that collectors under sixteen years of age will be accompanied by an adult.

- 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 a 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 of 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 the number of the 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 Warwick District Council.
- 16.
  - (1) Within one month after the date of any collection the person to whom a permit has been granted shall forward to the Warwick District Council.
    - (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 a collection and certified by that person and either a qualified accountant or an independent responsible person acceptable to the Warwick District Council,



## Appendix 1

- (b) a list of the collectors;
    - (c) a list of the amounts contained in each collecting box; and shall, if required by the Warwick District Council satisfy it as to the proper application of the proceeds of the collection.
  - (2) The Warwick District Council may, if satisfied there are special reasons for so doing, extend the period of one month referred to in paragraph (1) above.
  - (3) For the purpose 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 of Scotland;
    - the Association of Certified Accountants;
    - the Institution 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.



## STREET COLLECTIONS

### Application form

Application form for permission to collect money or sell articles in streets or public places within the Warwick District for the benefit of charitable or other purposes.

#### Section 1

Name of Society, Committee or other organization responsible for the collection	
Address (this should be the address of the Head Office of the Society or other body etc.)	
Email Address	
Telephone number	

#### Section 2

Name of the person making the application for the permit, who will be responsible for the collection	
Home Address (including Postcode) note: this is the address that will appear on the permit	
Position in above Society	
Date of Birth	
Email Address	
Telephone number	

#### Section 3

Relationship between Charity and person making the application	
PLEASE NOTE: If the relationship is one of 'Professional Fundraiser' please supply a copy of contract or agreement between the applicant body and the charity.	
PLEASE NOTE: If you intend to collect on behalf of a charity of which you are not a member, written authority MUST be obtained from the said charity authorizing you to organize collections on the charity's behalf and submitted with this application.	

**Section 4**

Name of the Charity or Fund which is to benefit	
Registered Charity Number	
Address of the Administrative Centre of the fund (i.e. Local Centre)	
Name of the Secretary	
Telephone number	
Objectives of the Charity/Fund	

**Section 5**

Desired collection date  Alternative date(s)	
Desired location for collection (indicate preference with 1 <sup>st</sup> , 2 <sup>nd</sup> , 3 <sup>rd</sup> etc.)  <div style="text-align: right;">           Leamington Spa            Warwick            Kenilworth            Rural/Other – please specify         </div>	
Disposal of the receipts. Are the whole of the receipts to be paid over for the benefit of the Charity or Fund, or will any deductions be made for expenses, or other purposes?	
If any deduction is made, state for what purpose and give an estimate of the sum which will be deducted	

**Section 6**

Has the Society, Charity or person making this application ever had a street collection permit refused or revoked?	
If yes, please give details	

**Section 7**

Please indicate whether you intend to have volunteers or paid collectors carrying out the collection			
If collectors are to be paid, please give payment details			
Please supply details of collectors in table below (Use separate sheet if necessary)			
<b>Full Name</b>	<b>Date of Birth</b>	<b>Address</b>	
Have any of the collectors ever been convicted of offences involving dishonesty?			
If the answer to the above question is yes, please provide full details ( <i>use a separate sheet if necessary</i> )			

**Section 8**

## Appendix 1

Name and Full Address of Accountant	
Details of accountant's qualifications	

### Section 9

Signature of person making this application	
Date of application	
<b>False or misleading information given will lead to the application being rejected, and may also result in prosecution.</b>	

If your application is granted, please note that you will be subject to the attached regulations.

Please note: There are usually more applications than dates available and it might not be possible to grant all applications.

Once this form is fully completed, return it to:

Licensing Team  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ.

**SCHEDULE (FORM OF STATEMENT)**  
TO BE COMPLETED FOLLOWING THE COLLECTION



**Street Collection Permit**  
Proceeds Statement Form

**Your Permit Number**

Name of person to whom the permit was granted	
Address of person to whom the permit was granted	
Name of the charity or fund which is to benefit	
Date of collection	

**Show nil entries**

Proceeds of Collection	Amount	Total	Expenses and Application	Amount	Total
From Collecting Boxes			Printing and Stationery		
Interest on proceeds			Postage		
Other items			Advertising		
			Collecting Boxes		
			Badges		
			Emblems		
			Other items:-		
			Payments approved under Regulation 15(2)		
			Disposal of Balance (insert particulars)		
TOTAL £			TOTAL £		

**Certificate of the person to whom the permit was granted**

I certify that to the best of my knowledge and belief the above is a true account of the proceeds, expenses and application of the proceeds of the collection.

Date ..... (Signed) .....

**Certificate of accountant/Auditor**

I certify that I have obtained all the information and explanations required by me and that the above is in my opinion a true account of the proceeds, expenses and application of the proceeds of the collection.

Date ..... (Signed).....

Qualification .....

## Appendix 2

### PUBLIC CONSULTATION RESPONSES

#### Alterations to Draft Street Collections Policy:

1. Date: 24<sup>th</sup> May 2021  
**Comment from resident:** 'I would like to see priority given to local charities where money raised stays in the local area'. (Paragraph 3.1)  
**Action: No action required, in line with proposed policy.**
2. Date: 24<sup>th</sup> May 2021  
**Comment from collecting business:** "I have read through the new policy and think it will be much fairer on all the charities that apply. I have a few areas that make me apply to each area with one week per month. (Spec dates) That would work out good for us as in we could do one charity in each area to make it fair on both. I have made notes of the changes and will apply accordingly for next year. Thank you for sending me the policy and I hope my feed back is of some help."  
**Action: No action required.**
3. Date: 26<sup>th</sup> May 2021  
**Comment from resident:** 'I am unhappy about the "get out" clause which permits WDC to ignore the policy if it so decides. The policy should always be adhered to.' (Paragraph 2.20)  
**Response:** Licensing are often advised by Legal services that policies should not be 'slavishly adhered to'. **Legal Services have been part of the development process for this policy and have not commented on this statement.**  
**Action: Legal advice requested.**
4. Date: 10<sup>th</sup> June 2021  
**Comment from resident:** "This seems sensible and as far as I can see is in accordance with existing policy. My only query would be about paragraph 2.19, which forbids collectors from handing out leaflets. In my experience as a collector for Amnesty International we did on occasions hand out cards to people who had given, inviting them to become more involved in the organisation. This would seem to be acceptable practice, though I appreciate it might be open to misuse if people were handing out flyers to every passer-by."  
**Response:** The major concern with handing literature or other items out is that they become litter. Officers feel that this is still relevant and should remain in the policy.  
  
As I understand it the policy only applies to cash donations. Charities increasingly suggest donors should give using contactless payment machines. Is there any provision under consideration for this type of payment?"  
**Response:** There has been a change to the way charities are collecting due to the pandemic. There is no way to know if charities will continue to offer a 'contactless' collection going forward.  
**Action: Legal advice requested.**
5. Date: 2<sup>nd</sup> July 2021  
**Comment from Town Council:** "The Town Council supports the Street Collection policy in its current format and thanks WDC for consulting the Town Council."  
**Action: No action required.**

Licensing & Regulatory Committee  
19 July 2021

**Title: 2023 Review of Parliamentary constituencies**

**Lead Officer:** Graham Leach, [graham.leach@warwickdc.gov.uk](mailto:graham.leach@warwickdc.gov.uk) 01926 456114

**Portfolio Holder:** Andrew Day

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: Budbrooke Ward Councillors

Final Decision: Yes

Accessibility checked: Yes

**Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/ Deputy Chief Executive	8/7/2021	Chris Elliott Andrew Jones
CMT		
Section 151 Officer	8/7/2021	Mike Snow
Monitoring Officer	8/7/2021	Andrew Jones
Finance	8/7/2021	Lorraine Henson
Portfolio Holder(s)	8/7/2021	Andrew Day



## **1. Summary**

- 1.1. The report informs the Committee of the proposed Parliamentary Constituencies for Warwick District as part of the first consultation and provides a suggested submission on behalf of the Council.

## **2. Recommendation**

- 2.1. The Committee notes the two proposed Parliamentary Constituencies covering Warwick District, of Kenilworth & Southam and Warwick and Leamington, as set out on the Plans at Appendix 1 and Appendix 2 to the report.
- 2.2. The Committee asks the Boundary Commission for England to consider the following points when setting the boundaries:
- (i) broadly the Council supports the proposed Boundaries as they will address some long-standing issues within the District.
  - (ii) the Council objects to the creation of an island constituency for Warwick & Leamington for the reasons set out in the report.
  - (iii) the Warwick District Ward of Budbrooke should be moved into the Constituency of Warwick and Leamington for the reasons set out in the report.
  - (iv) the significant expected growth in the electorate for the Kenilworth & Southam Constituency and that this could be mitigated by moving the Budbrooke District Council Ward to Leamington & Warwick Constituency for the reasons set out in the report without the need for the Commission to recognise growth.
  - (v) the current LGCE boundary review for Stratford on Avon District Council and seeks assurance that the final Wards for this will be allowed for within the final boundaries for any constituencies for South Warwickshire to avoid the current issues of non-aligned boundaries.

## **3. Reasons for the Recommendation**

- 3.1. The 2023 Review of Parliamentary constituencies is underway, with the first proposals having been published by the Boundary Commission for England (BCE). The proposals are available [online](#) and open to comment from anyone by 2 August 2021.
- 3.2. The initial proposals for the West Midlands include revised boundaries for both the Kenilworth & Southam Constituency and the Warwick and Leamington Constituency. These would have electorates of 74,107 and 72,784 respectively, being the two largest electorates of the five in Warwickshire, however these are not the largest in the region which is over 77,000 or the smallest which is just under 70,000.

- 3.3. The remit of the Boundary Commission for England for this review sets the UK electoral quota for the 2023 to the nearest whole number, 73,393. Accordingly, every recommended constituency (except the five 'protected' constituencies) must have an electorate as at 2 March 2020 that is no smaller than 69,724 and no larger than 77,062. There will be a further review of constituency boundaries but this will be for 8 years after the completion of the 2023 review.
- 3.4. This Council has, for a significant time, received complaints regarding the current Constituency Boundaries as they are not aligned with either District or Town/Parish Boundaries. For example, in parts of Milverton Ward, a small number of properties on the same road are divided between two Constituencies. These proposals resolve those issues without significant change for the District.
- 3.5. There are 2 broad points of issue about the constituency proposals. The first is about the projected growth in size and the second is about the geography of the constituencies.
- 3.6. Growth: Officers have been looking at the growth of the electorate in South Warwickshire generally. Between now and 2028 within Warwick District, based on the current local plan proposed sites and approved developments, the electorate in the Warwick and Leamington Constituency is expected to grow by circa 4,400 electors and Kenilworth & Southam by 6,126. This growth in Kenilworth and Southam does not allow for growth within any Wards from Rugby Borough nor Stratford-on-Avon District Councils. For example, the development of the Gaydon Village site (circa 3,000 homes) is underway and the Cawston, Bilton, Dunchurch site (circa 5,000 homes) is now coming forward. As a result, there is potential for the Kenilworth & Southam constituency to become greater than 90,000 by the time of the next review, with Warwick & Leamington also being over the upper limit of 77,062.
- 3.7. To help mitigate the implications of some of this growth it is suggested that the Bubrooke Ward is retained within the Warwick and Leamington Constituency. It would enable by 2028, an electorate in Warwick & Leamington of over 82,000 and Kenilworth and Southam of over 81,000, which is a far more balanced outcome.
- 3.8. This said, by law, the Boundary Commission for England is not permitted to consider future growth, however it can consider special geographical considerations, including in particular the size, shape and accessibility of a constituency; and any local ties that would be broken by changes in constituencies. Therefore, any proposal to move Budbrooke Ward would need to provide clear evidence on these points.
- 3.9. Geography: The Committee should note that the Constituency of Warwick and Leamington would be completely surrounded by the Constituency of Kenilworth & Southam. From inspection of the proposed constituencies in England, this only occurs in one other situation where York Central Constituency is surrounded by York Outer Constituency. No guidance on such an arrangement is provided by the BCE, however the LGBCE makes the following reference on what they call "Doughnut Wards" - "*we occasionally*

*receive proposals for a pattern of wards which propose an 'inner' ward and an 'outer' ward for a town or village. We will not normally recommend this kind of pattern because the communication links between the north and south of the outer ward are usually poor and we also often find that people in the northern part of the outer ward share higher levels of community identity with residents in the north of the inner ward than with residents in the south of the outer ward. Where we need to split a town or village to achieve electoral equality, we will usually seek an alternative to this pattern."*

- 3.10. Officers have considered this point and have consulted with its Budbrooke Ward Councillors, who support Budbrooke remaining with Warwick & Leamington Constituency. The view of officers and Budbrooke Ward Councillors is due to the proximity of the Budbrooke Ward to Warwick and its relationship with its infrastructure being aligned with that of its nearest major town as well as Bishop's Tachbrook, this Ward should remain part of the Warwick & Leamington Constituency. Further the increased development in and around the east of this Ward will have greater community relationship with Warwick and Leamington and this will need to be fostered to help build a stronger and more cohesive community.
- 3.11. This change will recognise the concerns that the Local Government Boundary Commission raise generally about community and identity, which, while harder to achieve for large constituencies, officers consider that every effort should be made to follow them, especially when these communities are being built.
- 3.12. Currently, there is a Ward Boundary review being undertaken of Stratford-on-Avon District Council Wards, which will be concluded prior to the review of the Parliamentary Constituency review. While this may or may not come into effect dependent on the outcome of the potential merger with Warwick District Council, this Council should champion the need for coterminous boundaries. This is especially important when the changes could impact upon one of the Constituencies which represent Warwick District.

## 4. Policy Framework

### 4.1. Fit for the Future (FFF)

- 4.1.1. The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). Section 4.2 below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

4.2. **FFF Strands**

4.2.1 **External impacts of proposal(s)**

**People - Health, Homes, Communities** – The report brings forward a proposed consultation response that is considered will help build stronger community identities within the District.

**Services - Green, Clean, Safe** – The report proposals has no direct impact on this aspect.

**Money- Infrastructure, Enterprise, Employment** - The report proposals has no direct impact on this aspect.

4.2.2. **Internal impacts of the proposal(s)**

**People - Effective Staff** – The report proposals has no direct impact on this aspect.

**Services - Maintain or Improve Services** - The report proposals has no direct impact on this aspect.

**Money - Firm Financial Footing over the Longer Term** - The report proposals has no direct impact on this aspect.

**4.3.1.Supporting Strategies** - Each strand of the FFF Strategy has several supporting strategies but this report does not directly impact on any of them.

4.3. **Changes to Existing Policies** – The report does not propose any changes to existing policies.

4.4. **Impact Assessments** – None have been undertaken as the report recommendations are a response to a public consultation.

**5. Budgetary Framework**

5.1. The report does not impact on the budgetary framework or budget of the Council.

**6. Risks**

6.1. The report provides a response to a public consultation which do not present any significant risk to the Council.

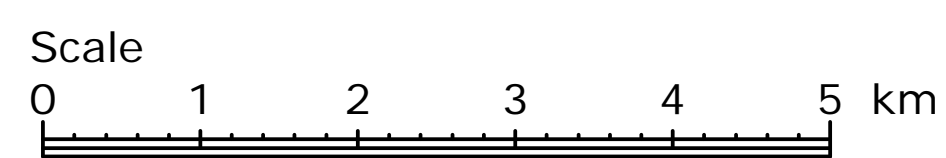
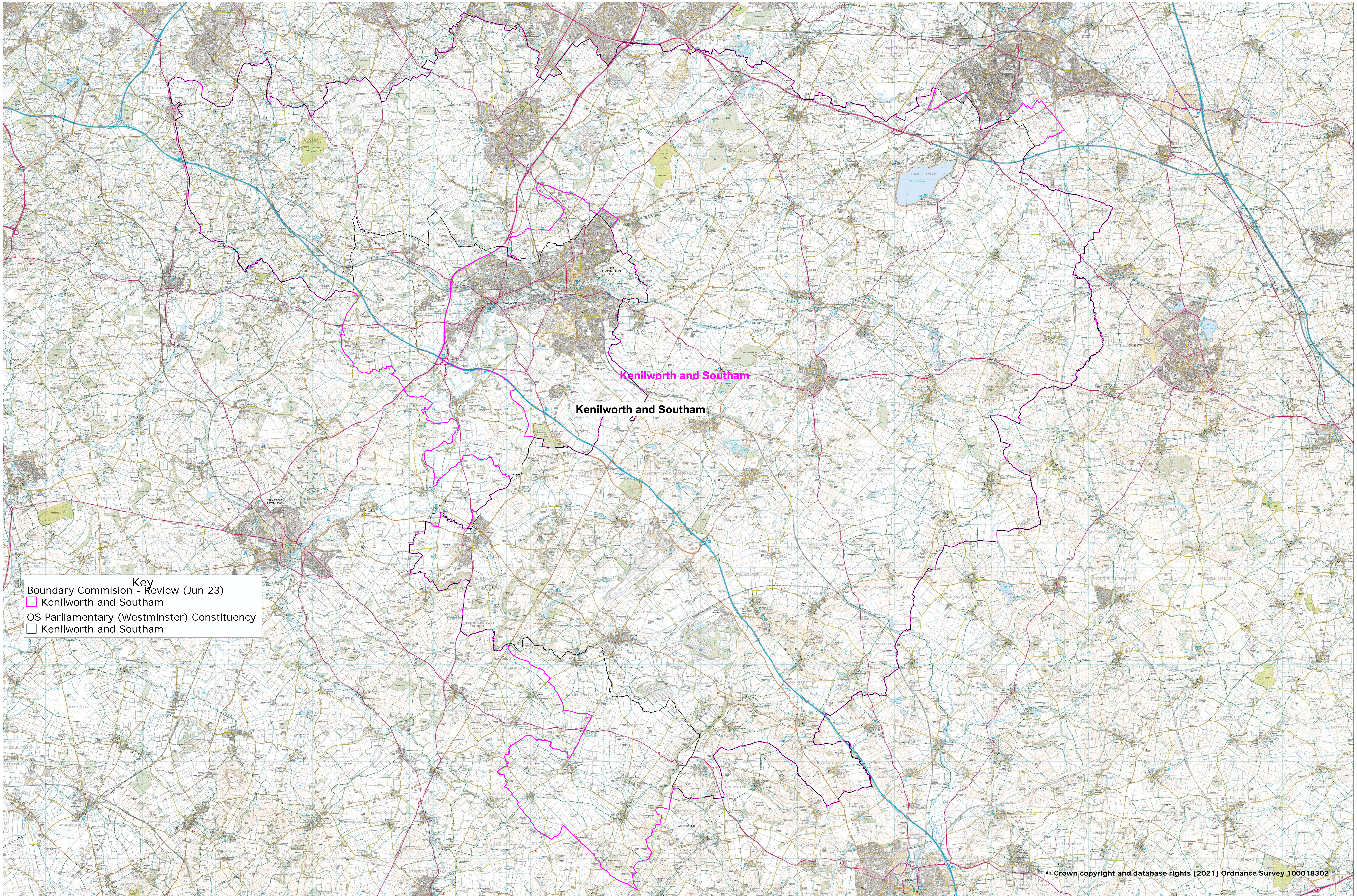
**7. Alternative Option(s) considered**

7.1. Within the guidelines for such reviews no alternative options have been considered however the Committee could choose to provide a different submission to the Boundary Commission for England.

## 8. Background

- 8.1. The Guide to review and all reference documents can be found on the review [website](#)
- 8.2. The timetable for the review by the Boundary Commission for England is as follows:
- 5 Jan 2021: Publication of headline electorate figures by ONS, BCE begin development of initial proposals;
  - 24 March 2021: Publish complete ward-level electorate figures (i.e. including 'prospective' wards);
  - 10 May 2021: Publish 'Guide to the 2023 Review';
  - 8 June 2021: Publish initial proposals and conduct eight-week written consultation;
  - Early 2022: Publish responses to initial proposals and conduct six-week 'secondary consultation', including between two and five public hearings in each region;
  - Late 2022: Publish revised proposals and conduct four-week written consultation;
  - June 2023: Submit and publish final report and recommendations



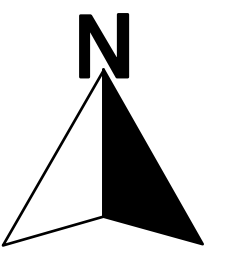


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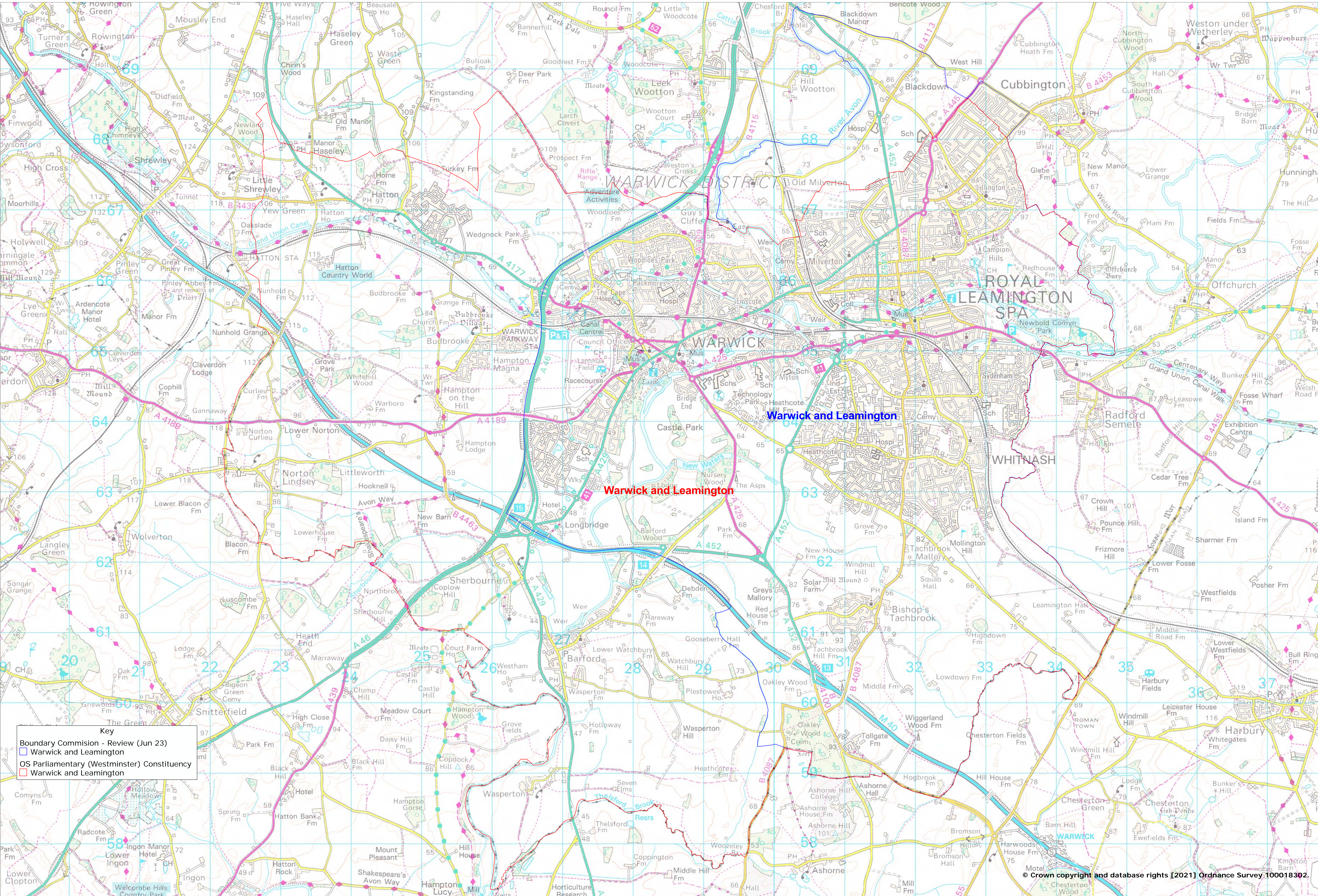
**Boundary Commission Review (2023)**  
**Kenilworth and Southam**

Drawn By: GIS

Date: 07/07/2021







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Boundary Commission Review 2023  
Warwick and Leamington

Drawn By: GIS  
Team  
Date: 11/06/2021

