



Basingstoke
and Deane

BASINGSTOKE AND DEANE BOROUGH COUNCIL
LICENSING ACT 2003
STATEMENT OF LICENSING POLICY
2018 to 2023

'to establish in the borough a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment; ensuring at all times the safety and amenity of residential communities, business communities and the visiting public'

Prevention of Crime and Disorder

Public Safety

Prevention of Public Nuisance

Protection of Children from Harm

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PART A
BASINGSTOKE AND DEANE BOROUGH COUNCIL
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INTRODUCTION

This is the Statement of Licensing Policy as determined by the council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 13 December 2013 and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The document is not a full and authoritative statement of the Law or statutory guidance and does not constitute professional or legal advice. The council welcomes comments and observations on this Statement of Licensing Policy. These should be addressed to:

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PUBLICATION

This version of the Statement of Licensing Policy of Basingstoke and Deane Borough Council is a draft consultation document.

1 CONSULTATION

- 1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

THE POLICY

2 BACKGROUND

2.1 When administering licensing matters the council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are the:

- *Prevention of Crime and Disorder*
- *Prevention of Public Nuisance*
- *Public Safety*
- *Protection of Children from Harm*

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to:

- The revised guidance issued under section 182 of the Act
- The Police Reform and Social Responsibility Act 2012
- The Live Music Act 2012.
- The Deregulation Act 2015
- The Immigration Act 2016

2.4 The 2003 Act further requires the Licensing Authority to monitor, review and where appropriate, amend its Statement of Licensing Policy. Where significant changes or a review of this Policy is undertaken, the Licensing Authority will consult with those parties listed at paragraphs 1.2 and 1.3 above and others prior to amending the Policy and also in preparing each statement of Licensing Policy in the future. Minor amendments reflecting legislative changes will be undertaken by officers to maintain accuracy.

3 **SCOPE**

3.1 Basingstoke and Deane Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
 - the performance of a play

 - an exhibition of a film
 - an indoor sporting event
 - boxing or wrestling entertainment
 - a performance of live music (subject to some exemptions)
 - playing of recorded music
- Provision of late night refreshment

3.2 The types of premises likely to be included within the licensing regime include:

- Pubs and nightclubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Street vendors serving food after 11pm
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

3.3 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

- 3.4 Basingstoke and Deane has a wide range of premises across the borough to which the policy licences and activities apply. These include:

Licensed private members clubs/social clubs	Wholesalers/Internet sales of alcohol	Supermarkets
Cafes	Licensed open spaces	Off Licences
Cinemas/Theatre/concert Hall	Public Houses	Late night food traders
Hotels and guest houses	Restaurants/cafes	Night club
Community premises/village halls	Sports clubs with Bars	Stately homes

- 3.5 The Licensing Authority also regulates other activities at licensed premises which include pavement cafes, sexual entertainment events, gambling and performances of stage hypnotism.

4 **LINKS TO OTHER COUNCIL STRATEGIES AND PROJECTS**

- 4.1 **Pride in our Place** - sets out the vision for the borough and the key outcomes that partners are working towards. The vision offers key priorities and ambitions for the future of the borough and will form a central element of the Local Plan. The Strategy states at its introduction that:

Basingstoke and Deane is a place to be proud of.

- 4.2 It goes on to state:

Our shared vision for Basingstoke and Deane to 2026

In 2026 Basingstoke and Deane's people, communities and businesses will be flourishing - enjoying an excellent quality of life and environment which has been improved through well planned growth that draws on our strengths and secures vital improvements.

Regenerating our towns and estates, and enriching the character and vitality of our villages and outstanding countryside will support Basingstoke as a major vibrant centre, leading North Hampshire and fulfilling an influential role in the region.

For further information about the purpose and evolution of the vision please visit the Council's website.

4.3 **Council Plan 2016 - 2020.**

The Council Plan sets out the Council's ambition for the borough, identifying key themes and priorities. More information on the plan can be found on the council website.

The Council Plan links to and is supported by a range of other published strategies and policies including this Statement of Licensing Policy.

- 4.4 It is fact that well managed licensed premises and licensable activities contribute to the boroughs activity, vitality, vibrancy and economy by attracting local residents and visitors to use the premises and facilities on offer, and provide sustainable employment for people who work at those premises. The licensed premises and licensable activities regulated by the Licensing Act 2003 will play a significant part in realising that vision.

5 **POLICY AIMS**

- 5.1 This Policy aims to promote the Licensing Authority's vision for the borough as a whole and its hopes:

'to establish in the borough a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment; ensuring at all times the safety and amenity of residential communities, business communities and the visiting public'

- 5.2 Basingstoke and Deane is a large borough situated in the County of Hampshire covering 634.5 square kilometres (245 square miles) with a population of 165,800.
- 5.3 Basingstoke is surrounded by small picturesque villages and smaller towns. The borough also boasts the North Wessex Downs Area of Outstanding Natural Beauty, and the River Loddon area within its boundaries.
- 5.4 The business and transport links to the borough are excellent with a number of purpose built business parks. A regeneration programme of the Basing View Business Park is underway. The close proximity to London and the south coast alike make the borough an attractive business location.
- 5.5 The Policy aim is to clearly set out how Basingstoke and Deane Borough Council in its role as the Licensing Authority will promote the four licensing objectives when dealing with licensing matters. The four licensing objectives are:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm

- 5.6 The Licensing Authority will regulate licensable activities at licensed and unlicensed premises in the combined interests of the public and licensed trades, and recognises that these activities contribute to the quality of lives of the borough's residents, businesses and visitors and help support the local economy.
- 5.7 To achieve this aim the council is committed to partnership working with the responsible authorities, local businesses, licensing trade, residents, those involved in the protection of children and other interested parties towards the promotion of the objectives. The council will ensure that it takes into account the views of these stakeholders and ensure proper integration of local crime prevention, planning, transport, employment, tourism and cultural strategies.
- 5.8 The Licensing Authority aims to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment.
- 5.9 This Policy aims to guide applicants, residents and other persons on the general approach that the council will take to licensing applications and other related issues. Although each application will be considered individually on its own merits, this Policy indicates the wider considerations that will be taken into account when determining applications. However, it is not the Council's intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.
- 5.10 The council will work with other local authorities, particularly those with whom boundaries are shared, to ensure a consistent approach is taken to licensing issues whilst respecting the differing needs of the individual communities.

6 LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

- 6.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 6.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises

- 6.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 6.4 **Advice** – Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website.
- 6.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. Guidance is available to all parties on the licensing pages of the Council's website.
- 6.6 **Supermarkets and other 'off' licensed premises selling alcohol.** The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 6.7 All 'off' licensed premises must comply with the *Licensing Act 2003 Mandatory Conditions Order* in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter **proxy** sales on behalf of under 18's.
- 6.8 Licensees should ensure consideration is given to refusing sales of alcohol to customers who can be clearly identified as having an alcohol related health condition and who may be a source of nuisance or annoyance through street drinking.
- 6.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.
- 6.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase.

- 6.11 **Designated Premises Supervisor (DPS) at alcohol licensed premises.** Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 6.12 The Licensing Authority would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 6.13 The Licensing Authority expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.
- 6.14 **Live Music** - It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.
- 6.15 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.
- 6.16 **Deregulated Entertainment.** Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers as per para 6.14. (Awaiting final confirmation of the deregulation plans).
- 6.17 **Late Night Levy (LNL).** Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the borough. The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.

- 6.18 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this borough.
- 6.19 **Early Morning Alcohol Restriction Order (EMARO)**. The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider an imposition of this Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the borough which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.
- 6.20 **Licensing and planning permission**. The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates. However, all applicants will be expected to be in possession of the necessary planning authorisation.
- 6.21 **Need for licensed premises and Cumulative Impact**. ***‘Need’*** concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a ‘market forces’ matter and is not of concern to the Licensing Authority. ***‘Cumulative Impact’*** means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 6.22 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses.
- 6.23 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the borough where there is a cumulative impact of licensed premises on any of the licensing objectives. If the public or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that support the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.
- 6.24 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

7 RESPONSIBLE AUTHORITIES AND OTHER PERSONS

- 7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Basingstoke and Deane Borough Council web-site.
- 7.2 When dealing with applications for licences and reviews of premises licenses, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons including ward councillors to comment both for and against applications for premises licences and club premises certificates and for reviews.
- 7.3 The Licensing Authority may only consider representations that are relevant, in that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.
- 7.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.
- 7.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 7.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.
- 7.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
 - whether the representation raises a 'relevant' issue
 - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

- 7.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 7.9 The Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.
- 7.10 **The Licensing Authority as a Responsible Authority.** The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.
- 7.10 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware that impact negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

business or changes to the operation of their business enhances and compliments the existing style and characteristics of the Top of Town and does not create a negative impact.

- 8.9 Where matters of concern arise from an application which generates representations, the Licensing Authority will, where appropriate control, or restrict trading hours and/or activities and impose appropriate and proportionate licence conditions to adequately mitigate those concerns where evidence supports such control in order to promote the licensing objectives.
- 8.10 Where noise nuisance arises from customers some distance from licensed premises affecting local residents which is caused by customers leaving the late night premises, the council may use its powers under the Environmental Protection Act 1990 where evidence is obtained of statutory nuisance.



9 CENTRAL AREA VISION

- 9.1 The council has a long term vision for the town centre called 'A Vision for Central Basingstoke' which includes the regeneration of Basing View. The Vision is supplemented by a Town Centre Programme, approved in 2013, which includes a raft of initiatives to improve the town centre. The improvements associated with the Vision and Programme are likely to attract businesses that will wish to provide a range of licensable and non-licensable activities. The Licensing Authority will wish to support the achievement of the Vision and Programme through the licensing process.
- 9.2 Whilst it is acknowledged that the improvement and regeneration of the town centre is still in progress, the life of this policy is such that it will be relevant to future licensees and businesses that are likely to be attracted to that area in the medium and longer term.
- 9.3 Where applications are eventually received for this area, the Licensing Authority will welcome a diverse range of businesses offering a broad choice of activities and will expect applications to complement the new development by enhancing the vitality, character and appearance of the area. This may lead to a consideration of restricted or more tightly controlled trading hours and a management of the numbers and types of premises to ensure that the desired vitality is secured and maintained and to prevent any negative impact on the promotion of the licensing objectives.

10 LICENSING AUTHORITY POLICY APPROACH TO LICENSING IN RURAL AREAS AND VILLAGE CENTRES

- 10.1 The Borough of Basingstoke and Deane includes many rural and semi-rural villages with their individual characteristics and qualities commonly found in rural and village life.
- 10.2 The Licensing Authority expects that, in general licensed premises in rural locations will operate earlier terminal hours to reflect the tranquillity and lifestyle within the village area, and to protect local residents living close to the premises. It is acknowledged that on occasions such premises will wish to extend their hours to support community and other events attended by the village residents.
- 10.3 Applicants will be expected to offer a range of steps within their operating schedule to protect the amenity of the residents where occasional later closing hours are utilised. Alternatively, licensees can make use of Temporary Event Notices to temporarily extend their hours of operation and range of licensable activities on offer.

11 EXCHANGE OF INFORMATION

- 11.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 and the General Data Protection Regulation (GDPR), which replaced the Data Protection Act 1998, in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

12 HUMAN RIGHTS AND EQUAL OPPORTUNITIES

- 12.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.
- 12.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 12.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

- 12.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people’s opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government’s overall objectives for public services.
- 12.5 This policy was reviewed and consideration has been given to the potential impact on the protected characteristics groups included in the Equality Act 2010.
- 12.6 That review concluded that the policy has a generally positive impact on all groups. It has a differentially positive impact on children due to the guidance included on the ‘protection of children from harm’. No negative impacts of the policy were identified. In addition, no differential impacts of the licencing application process were identified for any protected characteristics groups. The policy promotes equality and good relations by taking into account the principles of the Human Rights Act 1998 and the Equality Act 2010.

13 COMPLIANCE AND ENFORCEMENT

- 13.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 13.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and is available on the Council’s website.
- 13.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 13.4 The Licensing Authority has established protocols with the local Police on enforcement issues where necessary. This enables the more efficient deployment of council staff and Police officers who are commonly engaged in enforcing licensing Law and the inspection of licensed premises. Where necessary, inspections will be carried out jointly. The aims of the protocol are to target agreed problem and high risk premises which require greater attention whilst providing a lighter touch in respect of low risk premises which are well run.
- 13.5 The authority acknowledges that where annual fee payments for premises licences and club premises certificates are not made it must serve 2 working days’ notice on the licensee to suspend the licence or certificate and inform the Police Authority of the suspension. All licensees will receive a reminder that fees are due at least one month before the due date.

- 13.6 Where licences are suspended, the premises or club will be visited and enforcement action taken where licensable activities are being provided unlawfully while a licence is suspended.

14 ADMINISTRATION AND DELEGATION OF FUNCTIONS

- 14.1 The Licensing Authority acknowledges the default position of granting licences or certificates under the Licensing Act 2003 where there are no valid representations received in respect of an application.
- 14.2 In the interests of speed and efficiency the council will, where possible, delegate licensing decisions and functions to licensing officers including validation of applications, relevance of representations and review applications and minor variations. They will seek advice from the Council's Legal Services Team where necessary.
- 14.3 If a matter to be decided is controversial in any way, or the determination of the matter under delegated powers is precluded by Law, then it will be decided by the Full Council or Licensing Committee/Sub Committee, as appropriate. A table showing the approved delegation of functions is attached at Appendix B.

PART B
CONSIDERATION OF APPLICATIONS

15 NEW PREMISES LICENCES

- 15.1 This Licensing Authority is aware that in making decisions about applications for licences it will have regard to:
- its Statement of Licensing Policy made under section 5 of the Licensing Act 2003
 - the Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.
- 15.2 Details on the application process can be found on the Council's website.
- 15.3 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional clarity on a request from the licensing team.
- 15.4 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.
- 15.5 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish.
- 15.6 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into licence conditions.
- 15.7 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 22 of this policy will apply.
- 15.8 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee during the month before the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.

- 15.9 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
- 15.10 Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act, the Licensing Authority may decide not to suspend a licence or carry out enforcement pending payment of the overdue fee.

16 VARIATIONS TO LICENCES

- 16.1 From time to time licensees may wish to change the nature of the business and vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.
- 16.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 15 above.
- 16.2 Where applications are made for minor variations¹ officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation.
- 16.3 Where minor impact or no impact is considered Officers will consult with the relevant (if any) responsible authorities. Further information on minor variations can be found on the councils website.

17 VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)

- 17.1 The Licensing Authority expects the nominated DPS on a licence to be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.
- 17.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.

- 17.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.

¹ Not applicable for variations to changes to hours for the sale of alcohol

- 17.4 Para 6.10 to 6.12 above should also be noted.

- 17.5 Where there are no representations the default position is to grant the variation.

- 17.6 The Licensing Authority will add the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Sub Committee may approve or reject the application.

18 TRANSFERS OF PREMISES LICENCES

- 18.1 Before a licence transfer can be administered, the Licensing Authority expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.

- 18.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.

- 18.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process as detailed at section 22.

19 PROVISIONAL STATEMENTS FOR PREMISES

- 19.1 A provisional statement may be applied for where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.

- 19.2 The process for considering an application for a provisional statement is the same as that for a premises licence application (see section 15). The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

- 19.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a

change in the applicant's circumstances.

- 19.4 In addition, this authority may refuse the premises licence application (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by way of representations at the provisional statement stage,
 - which, in this authority's opinion, reflect a change in the operator's circumstances, or
 - where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this authority will discuss any concerns with the applicant before making a decision.

20 CLUB PREMISES CERTIFICATES – CONSIDERATION OF APPLICATIONS

- 20.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.
- 20.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.
- 20.3 In order to apply for a club premises certificate the Licensing Authority must satisfy itself that the club is a bona fide club and satisfies the legal conditions set out in the Act which are available on the Council's website.
- 20.4 Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.
- 20.5 The fundamental principles for premises licence applications set out at section 15 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.
- 20.6 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.
- 20.7 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.

- 20.8 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 20.9 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003 under the process described at paras 15.8 to 15.10 above.

21 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

- 21.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 21.2 The Act allows a licence to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 21.3 Although this Licensing Authority is also a Responsible Authority and entitled to bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 21.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 21.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with the Guidance issued by the Home office
 - relevant to the non-promotion of the licensing objectives
- 21.6 The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious. (See Paragraph 7.7)
- 21.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits and allow the benefit of doubt where necessary.
- 21.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. Such mediation would usually be chaired by the Licensing Manager or a licensing officer, but all parties may choose to have a different third party as a

- 21.9 All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application. Where appropriate the benefit of doubt will be given and representations accepted.
- 21.10 All reviews will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found at section 23.
- 21.11 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the a revocation of the licence will be considered.
- 21.12 More information can be found on the Council's website.

22 APPLICATION TO VARY PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS.

- 22.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.
- 22.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder
- 22.3 Before considering an application the Licensing Authority will satisfy itself that a premise meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.
- 22.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village or community hall would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.

- 22.5 The licensing officers will consider on a case by case basis all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the alcohol sales.
- 22.6 Committees that make an application will be expected to have members who are aware of the Law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

23 HEARINGS

- 23.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 23.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own ward. The subcommittee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 23.3 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the borough.
- 23.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing.
- 23.5 Where mediation is successful and a hearing is deemed unnecessary by all parties the mediation outcome will be presented to the licensing sub-committee in writing and signed by all parties for ratification and determination². The sub-committee may still determine that the addition of appropriate licence conditions at the determination stage.
- 23.6 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 23.7 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all

based on the content and relevance to the promotion of all licensing objectives.

23.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

² Not applicable to applications for a review of a Premises Licence or a Club Premises Certificate

- 23.9 In respect of all of the licensing objectives, licensing officers may be asked to assist in the drafting of licence conditions relevant to the application and representations in order to assist the Sub-Committee at a hearing

24 LICENCE CONDITIONS

- 24.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.
- 24.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. A copy of those conditions can be found on the Council's website.
- 24.3 Applicants will be expected to include appropriate steps within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.
- 24.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 24.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable and reasonable conditions for new and variation applications.
- 24.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions. Further information on the Guidance can be found at the Home Office website.
- 24.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises itself and the areas around the premises which is within the licensees control.
- 24.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

24.9 **Conditions to promote the Prevention of Crime and Disorder.**

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

24.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour •
Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

24.11 In busier premises the Licensing Authority would expect to see a short (say 30mins) ‘wind down’ or ‘drinking up’ period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

24.12 Where the Licensing Authority determines after consultation with the police that a premise is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence.

- 24.13 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.
- 24.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.
- 24.15 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.
- 24.16 **Conditions to promote Public Safety.**
The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.
- 24.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 24.18 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.
- It is expected that an operating schedule will specify occupancy limits for the following types of licensed premises:
- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the prime activity is the sale of alcohol
 - (ii) Nightclubs
 - (iii) Cinemas
 - (iv) Theatres
 - (v) Other premises where regulated entertainment is likely to attract a large number of people.
- 24.19 **Conditions to promote the Prevention of Public Nuisance.** The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base

Hours and nature of operation

- (iii) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
 - (iv) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
 - (v) Availability of public transport to and from the premises
 - (vi) Noise from use of the garden/outside space including smoking shelters.
 - (vii) Delivery and collection times and locations.
 - (viii) Impact of external security or general lighting on residents.
 - (ix) History of management of and complaints about the premises.
 - (x) Applicant's previous success in preventing Public Nuisance.
 - (xi) Outcomes of discussions with the relevant Responsible Authorities.
 - (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
 - (xiii) Collection of litter arising from the premises
- 24.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.
- 24.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.
- 24.23 **Conditions to promote the Protection of Children from Harm.**
Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.
- 24.24 Steps to prevent children from harm must be included where:
- (i) There is entertainment or services of an adult nature provided.
 - (ii) There have been previous convictions for under age sales of alcohol.
 - (iii) There is a known association with drug taking or dealing.

- (iv) There is a significant element of gambling on the premises.

There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).

- (v) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

24.25 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

24.26 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

25 PERSONAL LICENCES

25.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

25.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed on Schedule 4 of the Licensing Act 2003.

25.3 Where a representation is received from the Police the Licensing Authority acknowledges that it has discretion whether or not to grant the licence.

25.4 Where a representation is received from the Police objecting to an application for a personal licence, and that representation is deemed relevant by the licensing team in that there is a belief that granting the licence will undermine the prevention of Crime and Disorder Licensing Objective, the application will be referred to the Licensing Sub-Committee for determination at a hearing where the Licensing Sub-Committee will either grant or refuse the application.

25.5 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.

25.6 The Licensing Authority requires all personal licence holders to advise it each time there is a change of their name or address. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 10 working days of a notification of change.

25.7 The Licensing Authority anticipates that the Magistrates and

Crown Courts will

take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and to notify the Licensing Authority of any action taken in respect of a personal licence.

- 25.8 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty. Further information on personal licences can be found on the Council's website.

26 TEMPORARY EVENTS

- 26.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 26.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have advised those residents and businesses and considered any potential impacts and how they may be mitigated.
- 26.3 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 26.4 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or places. Information on the Law relating to temporary events is detailed on the Council's website at.
- 26.5 **Standard TEN.** A Standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.
- 26.6 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 26.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate

conditions (if the TEN takes place on a premises with an existing licence) or reject a TEN by serving a counter notice.

- 26.8 **Late TEN.** A late TEN (may be served between 9 and 5 working days before a proposed event commences. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 26.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.
- 26.10 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised.
- 26.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 26.12 There are restrictions on the numbers of each type of TEN that can be submitted. More details can be found on the Council's website.

27 ONLINE APPLICATIONS

- 27.7 Applications for all licence types under the Licensing Act may be made online using the facility available on the council website.
- 27.8 Where applications are made using the online facility the Licensing Authority will distribute copies of applications to the relevant Responsible Authorities on behalf of the applicant.
- 27.10 Applicants are strongly encouraged to use the online facility to complete their applications. Hardcopy forms are available on request from the licensing team.

28 OTHER RELEVANT MATTERS

- 28.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.

- 28.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.
- 28.3 Where application forms for premises licences and club premises certificates specify that no entertainment of an adult nature is proposed then the exemptions referred to at Para 18.3 will not be permitted
- 28.4 Where licensees have declared that no adult entertainment will take place at a premises, wish to use the exemption allowed at Para 28.3 the Licensing Authority will expect them to make an application to vary the licence (or club premises certificate) to include such entertainment.. The Licensing Authority expects that any application to provide sexual entertainment will incorporate appropriate steps within the operating schedule to protect all parties at the premises including performers and the public and in particular prevent access to such events by children to promote the prevention of children from harm licensing objective.
- 28.5 Applicants will be advised to seek advice from the Licensing Authority before applying to vary a licence to permit adult entertainment and are also advised to consider the Basingstoke and Deane Borough Council Sex Establishment Licensing Policy and licence conditions adopted by this authority in respect of the licensing of sexual entertainment venues and sex establishments. This information can be found on the Council's website.
- 28.6 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption **on** the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.
- 28.7 This 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 (under the GA2005);
 - gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
 - the premises are mainly used for gaming; or
 - an offence under the GA2005 has been committed on the premises.

- 28.8 **Gaming Machine Permit** – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.
- 28.9 In determining such matters, consideration will be given to the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.
- 28.10 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission
- 28.11 **Gambling in alcohol ‘On’ licensed premises.** Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mahjong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.
- 28.12 This exemption is automatically available to all clubs or alcohol licensed premises, but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are expected to seek advice from the Gambling Commission website or this Licensing Authority before providing any forms of gambling at alcohol licensed premises.
- 28.13 **Outdoor seating areas at licensed premises.** It is recognised that many ‘on’ licensed premises are located in pedestrianised streets with areas of outdoor space on the public highway adjacent to the premises. Customers like to sit outside such premises when the weather is suitable and a ‘café’ style culture is encouraged.
- 28.14 The Licensing Authority will require all licensees who wish to expand their eating and drinking areas to include the public highway adjacent to the premises to discuss those plans with the licensing team and ensure they have read and understood the guidance notes on what would be deemed safe and acceptable before making an application for a licence to permit them to place tables and chairs on the highway. Further advice can be obtained at on the council website.
- 28.15 Licensees will be expected to make appropriate arrangements for customers who wish to smoke outside the premises to ensure that the licensed highway area is not also used as the allocated smoking area. This is to prevent nuisance and potential ill-health to non-smokers who wish to use the outside seating.

29 INFORMATION

- 29.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Basingstoke and Deane Borough Council website www.basingstoke.gov.uk or by contacting the licensing team by email (licensing@basingstoke.gov.uk) , or by telephone on 01256 844844.

APPENDIX A - Responsible Authorities

Licensing Authority:

Licensing Department, Basingstoke & Deane Borough Council, Civic Offices, London Rd, Basingstoke, Hants, RG21 4AH

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

Police:

The Licensing Officer, Hampshire Constabulary, Basingstoke Police Station, London Road, Basingstoke, Hampshire RG21 2AD.

The Police can also be contacted for advice regarding licence applications via email on

force.licensing@hampshire.pnn.police.uk

Fire Service:

Service Delivery (Community Safety Delivery), Protection Department, Southsea Fire Station, Somers Road, Southsea, Hampshire, PO5 4LU

[Email: csprotection.admin@hantsfire.gov.uk](mailto:csprotection.admin@hantsfire.gov.uk)

Health and Safety Executive:

Priestley House, Priestley Road, Basingstoke, Hampshire RG24 9NW

Dealing with public safety issues in relevant premises

Child Protection Services:

Children's Safeguarding and Reviewing Service, HCC CSD Safeguarding Unit, Falcon House, Monarch Way, Winchester, SO22 5PL Tel 01962 876222

child.protection@hants.gov.uk

Public Nuisance and Public Safety:

Environmental Health Department, Basingstoke and Deane Borough Council, Civic Offices, London Road, Basingstoke, Hampshire RG21 4AH

Dealing with issues relating to public nuisance and health and safety (in relevant premises)

[Email: ehteam@basingstoke.gov.uk](mailto:ehteam@basingstoke.gov.uk)

Trading Standards:

Head of Safety and Standards, The Trading Standards Service, Montgomery House, Monarch Way, Winchester SO22 5PW

[Email: tsadvice@hants.gov.uk](mailto:tsadvice@hants.gov.uk)

Planning Authority:

Development Control Department, Basingstoke and Deane Borough Council, Civic Offices, London Road, Basingstoke, Hampshire RG21 4AH

[Email: development.control@basingstoke.gov.uk](mailto:development.control@basingstoke.gov.uk)

Primary Care Trust:

Licensing, Public Health Manager, Public Health Department, 1st Floor, Room 153, Elizabeth II Court, South, Hampshire County Council, Winchester, SO23 8TG

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

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APPENDIX B - Table –Delegation of Functions for decision making under the Licensing Act 2003

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	SUB COMMITTEE	OFFICERS
Approval and adoption of Statement of Licensing Policy	X	X		
Application for personal licence			If a Police objection	If no objection made
Application for personal licence with unspent convictions			If an objection is made by the Police and not disregarded by the officers	If no objection is made by the Police
Application for premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is made
Application for provisional statement			If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor			If a Police objection	All other cases
Request to be removed as designated premises supervisor				All cases
Application for transfer of premises licence			If a Police objection	All other cases
Applications for interim authorities			If a Police objection	All other cases
Application to review premises licence/club premises certificate			All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.				All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application				All cases

Determination of an objection to a temporary event notice			All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition			If Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application				All cases
Determination of minor variation application				All cases
Decision on whether to make a representation about a premises licence or club premises certificate application or major variation or call for a review of a licence/club premises certificate				Officer graded at a level above the grade of the case officer