



NOTICE OF MEETING

Licensing and Safety Committee

Thursday 14 October 2010, 7.30 pm

Council Chamber, Fourth Floor, Easthampstead House, Bracknell

To: Licensing and Safety Committee

Councillor Brunel-Walker (Chairman), Councillor Mrs Ryder (Vice-Chairman), Councillors Mrs Angell, Baily, Mrs Barnard, Beadsley, Brossard, Burrows, Finch, Leake, Osborne, Phillips, Thompson, Virgo and Ms Wilson

ALISON SANDERS
Director of Corporate Services

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Published: 5 October 2010



Licensing and Safety Committee
Thursday 14 October 2010, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House,
Bracknell

AGENDA

Page No

1. **Apologies for Absence**
To receive apologies for absence.
2. **Declarations of Interest**
Members are required to declare any personal or prejudicial interests and the nature of that interest, in respect of any matter to be considered at this meeting.
3. **Minutes**
To approve as a correct record the minutes of the meeting held on 1 July 2010. 1 - 4
4. **Urgent Items of Business**
Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.
5. **Review of Statement of Licensing Policy**
This report brings the Reviewed Licensing Policy, with suggested amendments, to the Committee for comment prior to approval by Council on 24 November 2010. 5 - 44
6. **Fees and Charges**
This report sets out the current and proposed fees and charges. Members are asked to note the proposals and agree that these fees go forward for further discussion and consultation as part of the Council fee setting process 45 - 54
7. **Licensing Policy in Regard to Sex Establishments**
This report puts forward a draft licensing policy in regard to sex establishments together with guidance notes for applicants for the consideration of this Committee prior to wider consultation with the residential and business community of Bracknell Forest and other local agencies. 55 - 66
8. **Rebalancing the Licensing Act Consultation**
This information report sets out the joint member officer response to the Home Office consultation paper Rebalancing the Licensing Act. 67 - 102

9. **Operators' Forum**

This information report presents the minutes of the meeting of the Operators' Forum held on 27 July 2010.

103 - 106

10. **Date of Next Meeting**

Thursday 13 January 2011 at 7.30pm

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**LICENSING AND SAFETY COMMITTEE
1 JULY 2010
7.30 - 9.40 PM**

Present:

Councillors Brunel-Walker (Chairman), Mrs Ryder (Vice-Chairman), Mrs Angell, Baily, Mrs Barnard, Beadsley, Brossard, Finch, Osborne, Phillips, Thompson and Ms Wilson

Apologies for absence were received from:

Councillors Leake and Virgo

4. Declarations of Interest

There were no declarations of interest.

5. Minutes

RESOLVED that

- (i) the minutes of the meeting of the Committee held on 29 April 2010 be approved as a correct record and signed by the Chairman; and
- (ii) subject to the deletion of 'Councillor Brunel-Walker in the chair', the minutes of the meeting of the Committee held on 12 May 2010 be approved as a correct record and signed by the Chairman.

6. Health and Safety Law Enforcement Plan 2010/11

The Head of Environmental Health presented the report on the Health and Safety Law Enforcement Plan 2010-2011 which reflected the requirement to ensure that national priorities and standards were delivered effectively and consistently at a local level. The Plan also identified where and how resources were to be deployed in the current year. Appendix B of the Plan set out the work plan.

Key points identified included –

- The varied work including 134 inspections of businesses, 121 other related visits, responding to 236 complaints, investigating 167 accidents and issuing to 62 businesses formal notifications to how businesses could comply.
- 239 inspection visits were planned for higher risk premises. In a typical year some low risk premises were likely to be inspected following complaints or accident investigations.
- There were approximately 1000 C-rated or unrated premises who would also receive newsletters.
- In 2009/10 255 health and safety inspections and visits were made and 167 notified accidents were investigated.
- In 2009/10 enforcement action was taken in 62 instances. Officers tried to be proportionate in their approach to a problem.

The Committee thanked the officers and their teams for an excellent report and

RESOLVED that

- (i) the Performance Outturn report set out in Appendix A be noted; and
- (ii) the adoption of the Health and Safety Law Enforcement Plan for 2010-11 set out in Appendix B be agreed, noting the particular focus on topic inspections and the inspection strategies for high risk businesses to ensure resources were appropriately targeted.

7. Taxis in Bus Links

The Principal Engineer (Traffic and Safety) presented the report informing the Committee of the issues surrounding the potential use of bus links and gates by taxis.

Prior to commencement of the Council's third Local Transport Plan which would set out transport strategies for 2011-2026 a review of the existing transport strategy on taxis would be undertaken. Consultation with stakeholders and interested parties would be undertaken prior to submission to the Government in late 2010.

The taxi trade representatives had confirmed that they wished to gain access across the A322 at the Downshire Way signalised bus gate to shorten north/south journey times during peak periods. A study of the whole A322 route was currently in progress. The Committee noted that a logical outcome of increased operation of the bus gate for individual taxi journeys would act against important objectives if considered in isolation. It was likely that any future options to target this issue through prioritised access would be reliant upon the initial introduction of broader measures aimed at tackling congestion on this corridor.

Table 1 set out the status and location of existing bus gates/links of which three were considered suitable to be considered for use by taxis – Ringmead (Great Hollands), Wildridings Road and Ringmead (Hanworth). These were achievable in the short term subject to funding. The Chairman invited Mr Yexley, Chairman of the Bracknell Licensed Taxi Forum to speak to the meeting. Mr Yexley said he saw little benefit to taxis of using the links referred to above but it would be of beneficial to be able to use the one at Downshire Way. In view of the trade's view officers would need to discuss this matter further with them. Further dialogue would be held outside of the meeting.

Officers responded to questions from members about –

- The need to retain the link from Hanworth to South Hill Road, currently unused by buses.
- Safety concerns about the sump traps at the link on the A3095 between Hanworth and Great Hollands.

The Committee thanked the officers for the report which was noted.

8. Amendment to Penalty Points Enforcement

The Head of Trading Standards and Services presented this report following the suggestion of the Bracknell Licensed Taxi Forum that resources were wasted sending out reminder letters to their members.

A review had been carried out from which the following had emerged –

- A reminder that a licence was due to expire, including a renewal application form, would be helpful.
- Reminders of a vehicle inspection were considered unnecessary.. Checks had revealed that, despite sending reminders in February, 13 were not presented by the due date in March and it was therefore not unreasonable to conclude that the reminders were not effective.

Members asked officers to look into the possibility of access to the DVLA database.

RESOLVED that the relevant procedures be amended so that, should a licence holder fail to produce insurance, vehicle inspection report or MOT documents by the due date, the licence be suspended until production of the document and the licence holder be issued with four penalty points in line with the Council penalty points enforcement scheme.

9. **Bracknell Forest Licensed Taxi Forum**

The Licensing Team Leader presented the minutes of the meeting of the Bracknell Licensed Taxi Forum meeting held on 21 May 2010. Meetings were held monthly and was a forum for owner/drivers, not taxi companies.

At the request of one of the taxi operator companies, a special meeting had been arranged to take place within the next few weeks, but this was not a regular arrangement.

Concerns were expressed about lack of communication with taxi operator companies and one present at the meeting expressed a wish for more regular meetings.

RESOLVED that

- (i) the minutes be noted; and
- (ii) officers be asked to investigate how the Council communicated with all aspects of the trade and report back to the Chairman and Vice Chairman.

10. **Recommendations from the Unmet Demand survey**

The Head of Trading Standards and Services introduced the report appraising the Committee of progress on a number of issues raised in the TPI unmet demand survey and officers' consideration of the impact of a limitation on the number of hackney carriage licences.

The Committee noted that some recommendations had not been fully resolved, full details of which were contained within the report.

Government guidance remained that –

‘Numerical restrictions should only be imposed where those restrictions deliver clear benefits to the consumer.’

‘Restrictions should only remain if there is a strong justification that removal would lead to significant consumer detriment as a result of local conditions.’

The Chairman invited Mr Yexley, Chairman of the Bracknell Licensed Taxi Forum to speak to the meeting. Mr Yexley expressed the view that there was a demand for licence plates and if the freeze were lifted the standard would diminish and safety could be compromised.

The Committee received the advice of the Assistant Borough Solicitor on the Council's legal position and vulnerability. He advised that as outstanding issues which led to a temporary moratorium being imposed had now been resolved a decision should now be made one way or the other.

The Committee had regard to the Government guidance together with the fact that the maximum number of plates based on the moratorium had not been reached. More importantly, there was also evidence of some unmet need in the evenings and weekends, particularly that identified by the Private Hire Operator, Janie Robson, who told the Committee that she had to turn customers away at the weekend and evenings because she did not have enough drivers to cover demand at those times. The Committee heard from the taxi trade that during the moratorium hackney licence plates had changed hands, despite the number of plates issued by the Licensing Authority not having reached the maximum set by the moratorium.

The Committee considered that the continued imposition of the restriction could not be justified. There was no evidence presented within the TPI report, or which had subsequently become evident, that removal of the temporary restriction imposed as a moratorium in October 2009 would lead to “significant consumer detriment as a result of local conditions”.

RESOLVED that the withdrawal of the limit on the number of hackney carriage licences issued be agreed as local conditions within Bracknell Forest did not demonstrate a strong justification that removal of numerical restrictions would lead to significant consumer detriment.

CHAIRMAN

LICENSING AND SAFETY COMMITTEE 14 OCTOBER 2010

REVIEW OF STATEMENT OF LICENSING POLICY (Chief Officer: Environment and Public Protection)

1 PURPOSE OF DECISION

- 1.1 Section 5 of the Licensing Act 2003 requires the licensing authority to prepare and publish a statement of its licensing policy every three years. The statement of policy outlines the general approach of the licensing authority when making licensing decisions under the Act.
- 1.2 The Bracknell Forest Statement of Licensing Policy must undergo a review and be re-published on 7 January 2011. The purpose of this report is to bring the Policy, with suggested amendments, to the Committee for comment prior to approval by Council on 24 November 2010.

2 RECOMMENDATION

- 2.1 **That the Committee notes the proposed amendments and agrees that the revised policy be put forward to Council on 24 November 2010 for approval.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The legal implications are identified within the report.

Borough Treasurer

- 3.2 There are no significant financial implications arising from the recommendation in this report.

Equalities Impact Assessment

- 3.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

- 3.4 There are no strategic risk management implications arising from the recommendation in this report.

4 SUPPORTING INFORMATION

- 4.1 Consultation on the Policy started on 8 July and ended on 1 October. Attached to the report as **Annex A** and **Annex B** are the two responses received. The comments received have been considered and where appropriate included within the Policy.
- 4.2 Attached as **Annex C** to this report is the proposed new Policy, marked to show changes together with comments as to why those changes are suggested.

Background Papers

Licensing Act 2003

Guidance issued under section 182 of the Licensing Act 2003 (March 2010)

Bracknell Forest Statement of Licensing Policy (January 2008)

Contact for further information

Laura Driscoll, Licensing Section - 01344 352517

laura.driscoll@bracknell-forest.gov.uk

Doc Ref

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Annex A

THAMES VALLEY POLICE RESPONSE TO THE CONSULTATION ON BRACKNELL FOREST COUNCIL STATEMENT OF LICENSING POLICY

1. Introduction to the policy.

Paragraph 1.6 – change other agencies to “Responsible Authorities”?

Paragraph 1.8 – operation to operational?

Paragraph 1.15 – strongly recommended?

Paragraph 1.21 – The Police will use s161 of the Act when they deem it necessary to close a premises at any time. There is no consultation with any other agency in the use of this power?

2. Prevention of Crime and Disorder.

Paragraph 2.2 – Last sentence, omit “where operational” as it is?

Paragraph 2.2 C – Last sentence add, or any found illegal drug related items?

3. Public Safety.

Paragraph 3.3 – Last sentence, add, “and the safety of patrons using the premises whilst it is being used under the terms of the premises licence”.

Paragraph 3.11 – add, including controlled drugs, “and prescribed medicines”

Paragraph 3.12 – first sentence, should relate to Model Pool Conditions CD 36?

Paragraph 3.15 – are some of the contents covered by other primary legislation?

4. Prevention of Public Nuisance.

Paragraph 4.6 add, “and the safety of patrons using the premises whilst it is being used under the terms of the premises licence”.

5. Protection of Children from Harm.

Paragraph 5.8 – add, cigarettes? see Model Pool Conditions PC26?

Paragraph 5.18 – last sentence, the responsibility for this function was delegated to Thames Valley Police by the LSCB.

6. Temporary Event Notices.

Paragraph 7.3 – second sentence, change “within the ten day time frame” the SDOs at Bracknell and Crowthorne Police Stations are not manned for twenty four hours a day.

7. Personal Licences.

Paragraph 8.4 – inform the issuing Licensing Authority?

8. Complaints against Licensed premises.

Paragraph 11.7 – add, in a public or private domain?

9. ANNEX A.

This process applies to the following – add Late Night Refreshment?

10. ANNEX B.

Licensing Qualifications – other agencies other than the BII can provide qualification.

Regulated Entertainment – entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance?

>>> "Adele Swadling" <Clerk@CrowthornePC.org.uk> 08/09/10 11:54 >>>

Dear Sue/Mary

Licensing Act 2003 - Review of Licensing Policy Statement

Crowthorne Parish Council reviewed the Statement of Licensing Policy at the Parish Council meeting of the 7 September 2010, and the following comments were agreed:-

Crowthorne Parish Council has reviewed the Licensing Policy dated January 2008 and would like to comment as follows:- The four licensing objectives as set out in the 'Statement of Licensing Policy' are retained by the Licensing Authority, Bracknell Forest Council, these are:-

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

Kind Regards,

Adele Swadling
Clerk to the Council



Statement Of Licensing Policy

January 2011

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1. Introduction to the Policy

- 1.1 The Licensing Act 2003 requires Bracknell Forest Borough Council, as the Licensing Authority, to publish a 'Statement of Licensing Policy' which sets out the policies the Licensing Authority will apply to promote the four Licensing Objectives when making decisions on applications. In drafting this Policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of Bracknell Forest, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.
- 1.2 In carrying out its licensing function, the Licensing Authority will promote the four Licensing Objectives. These are the only matters to be taken into account when determining an application. The four Licensing Objectives are:
- (a) Prevention of Crime and Disorder;
 - (b) Public Safety;
 - (c) Prevention of Public Nuisance; and
 - (d) Protection of Children from Harm.
- 1.3 The Council has adopted a Neighbour Notification policy for applications for new licences and the variation of existing licences. This is in accordance with paragraph 8.52 of the Guidance issued under section 182 of the Licensing Act 2003. A copy of the policy is attached to this document as Annex A. The Neighbour Notification policy will be kept under review by the Licensing and Safety Committee.
- 1.4 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, Responsible Authorities and/or interested parties prior to the hearing.
- 1.5 There are four main licensable activities:
- a) the sale by retail of alcohol;
 - b) the supply of alcohol by or on the behalf of a club to, or to the order of, a member of the club;
 - c) the provision of regulated entertainment; and
 - d) the provision of late night refreshment.

This Licensing Policy is about the regulation of licensable activities and as such is focussed on the direct impact of activities taking place on or in the vicinity of those premises. It is not a primary mechanism for controlling general nuisance unconnected to the Licensing Objectives.

- 1.6 This Policy is intended to shape the future of licensing, entertainment and related social activities within the Borough, and has been produced after consultation with the public and interested bodies, including the licensed trade, **responsible authorities** and other agencies. Due consideration has been given to all relevant responses in the production of the final version of this Policy.
- 1.7 The Licensing Authority aims to ensure that licensed premises have good operating practices, which assist in reducing the significant contribution that alcohol misuse makes to violent crime.
- 1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and interested parties where appropriate in order that they have a clear understanding of both the legislative and operational requirements.

Comment [L1]: Added at suggestion of TVP

Comment [L2]: Added at suggestion of TVP

- 1.9 The Licensing Authority is committed to promoting the Borough's Sustainable Community Strategy and will actively encourage a broad range of entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.10 To ensure this Policy integrates with other strategies, such as the Safer Communities Strategy, the Anti-Social Behaviour Strategy and the Safer Communities Partnership, the Licensing Authority has liaised and consulted with the appropriate groups and will continue to develop close working partnerships.
- 1.11 The Licensing Authority recognises that licensing is about licensable activities taking place at licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and that conditions attached to various authorisations will be focussed on matters which are within the control of individual licensees and others in possession of relevant authorisations.
- 1.12 The changes to licensing which came into effect in November 2005 applied to:
- Pubs, nightclubs, and bars
 - Indoor sporting events including boxing and wrestling
 - Off-licences and other places that sell alcohol, such as supermarkets and convenience stores
 - Restaurants that serve alcohol
 - Businesses offering hot food between 11pm and 5am, eg: late-night cafés, takeaways, street trading etc
 - Hotels, guesthouses
 - Private members clubs, sports and social clubs and clubs associated with businesses
 - Theatres
 - Garage forecourts selling alcohol and hot food after 11pm
 - Cinemas
 - Organisers of Regulated Entertainment, eg: Community Centres, Schools and Village Halls

However, this list is not exhaustive and the Policy covers a wide variety of premises and activities carried on in them as specified within the Act. For this reason the Licensing Authority cannot detail in the Policy all the factors that may influence the achievement of the Licensing Objectives.

- 1.13 When determining applications, the Licensing Authority must be satisfied that the applicant's Operating Schedule (described later in the Policy) seeks to promote the four Licensing Objectives. The Licensing Authority will make decisions guided by this Policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. The Licensing Authority's Statement of Licensing Policy further outlines the expectations of the Licensing Authority and should assist applicants to understand the rationale behind its Policy.
- 1.14 Every application to the Licensing Authority will be considered on its merit and will be treated fairly and objectively, taking into account the four Licensing Objectives. The Licensing Authority may monitor race-equality to ensure a fair application of the Policy, with specific reference to the rate of approvals/refusals, the level of enforcement, and the attachment of additional conditions.

1.15 The Licensing Panel will take into account the views of Thames Valley Police, which has issued guidance to its licensing officers regarding the criteria to work to when considering a licence application. It is **strongly** recommended that all applicants consult with the local police licensing officer before submitting an application.

Comment [L3]: Added at suggestion of TVP

1.16 If there is a recognised need, the Licensing Authority will form a liaison group that includes representation from responsible authorities and the community, to assess the impact of current licensable activities and the possible cumulative effect in an area. The purpose of this will be to:

- (a) monitor developments in the area;
- (b) identify and resolve any issues within the community;
- (c) assess cumulative impact of a concentration of licensed premises; and
- (d) ensure the licensing objectives are being met.

1.17 The Policy will not undermine the applicant's right to apply under the Act for a variety of permissions, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate.

1.18 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example Disability Discrimination legislation, the Health and Safety at Work etc Act 1974, the Environmental Protection Act 1990 and the Regulatory Reform (Fire Safety) Order 2005.

1.19 This Policy will be continually updated and reviewed. In any event the Policy will be reviewed every 3 years.

1.20 Comments on the Policy may be made to the Licensing Authority, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell or online at www.bracknell-forest.gov.uk. All comments received will be carefully considered and, where appropriate, included in the Policy.

1.21 The Licensing Authority will work with the Police **as appropriate** where there is a **possibility of a** premises **being** subject to a Police Closure Notice. Protocols for enforcement will be established between the Police and the Licensing Authority in order to target agreed problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises.

Deleted: need to determine whether any

Deleted: should

Deleted: be

Comment [L4]: Clarified at suggestion of TVP

1.22 The Licensing Authority will work with and actively encourage licensees to promote anti-drink driving campaigns, for example, licensees could participate in the Designated Driver (DES) Scheme promoted by the Portman Group and backed by the Department for Transport and the British Beer & Pub Association.

1.23 The Policy has in mind a wide range of licensed premises, from small off-licences and take-aways to cinemas and large nightclubs. The Licensing Authority has discretion to decide that parts of the Policy do not apply to particular premises, and also has a wide discretion as to what conditions, if necessary, are appropriate to attach to a licence. These conditions will be tailored to suit the circumstances and premises. Conditions will be proportionate and necessary to achieve the licensing objectives. If no representations are received, however, the application will be granted in the terms sought and no additional conditions attached.

1.24 The Licensing Authority will seek to protect the reasonable rights of residents and businesses, and other parties such as visitors and persons holding official offices/responsibilities. In determining applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on

members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not a primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises. Nonetheless, it is a key aspect of such a control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in the town centre.

1.25 The Licensing Authority recognises that longer licensing hours for the sale of alcohol aims to:

- ensure that large numbers of customers leaving premises simultaneously are avoided,
- meet the Public Safety, Public Nuisance and Crime and Disorder Licensing Objectives,
- encourage the development of a thriving and safer night time economy, and
- offer a greater choice and flexibility to the community.

1.26 Most licensable activities are listed in the Glossary, however where a member of the public is uncertain as to whether an activity is licensable or not they should contact the Licensing Section through the Customer Service Centre on 01344 352000 or e-mail licence.all@bracknell-forest.gov.uk.

PART A

2. Licensing Objective 1: Prevention of Crime and Disorder

- 2.1 The Licensing Authority is committed to reducing crime and disorder across the Borough through its statutory duty under the Crime and Disorder Act and the Community Safety Strategy. In addition, the Council is committed to further improving the quality of life for the people of Bracknell Forest by continuing to reduce crime and the fear of crime.
- 2.2 National and local crime statistics evidence that the consumption of alcohol is a significant contributory factor to levels of crime and disorder. Good management and practice procedures in licensed premises can and do make an important contribution to lessening that impact. An example of good practice would be for licensees to join a local Pub and Drug Watch Scheme. ↓↓
- 2.3 The Licensing Authority, Police and licensees are encouraged to work in partnership with a local Pub and Drug Watch Scheme within the Borough to help licensees to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information through effective communication and seeks to address matters such as under-age sales, problems associated with drunkenness, prevention of illegal drug use, and anti-social behaviour.
- 2.4 It is imperative that all forms of crime are prevented in licensed premises. A responsible licensee or their staff shall deter, prevent and report other instances of crime, such as offences under the Theft Acts (eg: handling stolen goods), violence or any other activity likely to constitute or conspiring to commit crime, including activities associated with the sex industry.
- 2.5 The Licensing Authority and Thames Valley Police through their Safer Communities Partnership will regularly monitor and review crime statistics within the Borough and their association with alcohol. Applicants for new licences or existing licences under a review process will need to satisfy the Licensing Authority in their Operating Schedule that they will take reasonable steps to reduce and prevent Crime and Disorder on their premises or in the vicinity in line with Local Crime Prevention Strategies.
- 2.6 In considering licensing applications, the Licensing Authority will expect applicants to set out, where necessary and based on individual risk assessment:
- (a) What measures will be taken by the licensee to promote intolerance of drugs and illegal substances, to prevent their use, sale or supply on the premises, and what provision will be made for facilities to store seized items.
 - (b) What measures will be taken by the licensee to raise staff awareness of both drug and alcohol abuse, for example training to recognise symptoms of drug abuse.
 - (c) What action will be taken when drugs have been found. The Licensing Authority may require a log to be kept and all entries in the log to be witnessed. This log should be made available to any Police Constable or authorised officer of the Licensing Authority. The Licensee should advise the Police at the earliest possible opportunity of any **found or** confiscated item.
 - (d) What measures will be taken by the licensee to prevent alcohol abuse such as drinking games and continuous drink promotions, including the adoption of advice by the British Beer and Pub Association and the Portman Group.

Comment [L5]: Removed at suggestion of TVP

Deleted: , where operational.

Comment [L6]: Added at suggestion of TVP

- (e) What features are currently in place or planned for physical security at the premises eg, CCTV. As a preventative measure in the licensing application process, all new applicants are advised to consult with the Thames Valley Police Crime Reduction Team.
 - (f) How licensees propose to work in partnership with the Licensing Authority, Police and other traders to establish an agreement on co-ordinating operating hours to prevent large numbers of people moving between premises, e.g. disco nights, promotion nights and special events which could attract large numbers of people. Such co-ordination, though it is not a requirement of the Licensing Act, could be achieved through a local Pub Watch Scheme.
 - (g) What arrangements will be made for the adoption and use of a recognised or appropriate age-monitoring scheme.
 - (h) What active management measures will be taken for the prevention of violence or public disorder eg, where appropriate, employment of registered door staff to control entry, persons awaiting entry to the premises, flashpoints within the premises, and the dispersal of customers. This might include the safety of women and race issues, ie: measures taken to deal with harassment, discrimination and inappropriate behaviour.
- 2.7 Applicants should address in their Operating Schedule the individual style and characteristics of their premises and the proposed events and activities. This could include, for example, seating provided in pubs, bars, nightclubs and late night refreshment houses because research has shown that the amount of seating can be relevant to the prevention of crime and disorder.
- 2.8 The Licensing Authority is aware that retail outlets will be able to sell alcohol for consumption off the premises at any time they are open for trade including 24-hour opening, Sundays and Bank Holidays. However, a restriction on sales may be imposed where representations are made by the Police and it is considered necessary to promote the Licensing Objectives.
- 2.9 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have considered and taken action to address those issues. New applications or applications for variation may be refused where there are significant outstanding issues.
- 2.10 In the interests of the Public Safety and Crime and Disorder Licensing Objectives, the Licensing Authority will advise, where appropriate, that where alcohol is consumed in designated outside areas, provision is made to ensure that glasses and bottles will be of a type which, when broken, do not enable the remnants to be hazardous, or used as a weapon. This would not be a ban on glass bottled products per se, merely on the serving of drinks in glass bottles. A ban would be based on risk assessment and would only be applied where necessary.
- 2.11 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity. The Licensing Authority recommends licensees seek guidance from the Commission for Racial Equality website, <http://www.cre.gov.uk/> or by contacting them on 020 7939 0000.

2.12 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:

- Use of text pagers
- Door supervisors
- Banning of bottles
- Plastic containers and toughened glass
- CCTV – to a standard required by Thames Valley Police
- Preventing the taking of alcoholic and other drinks from the premises in open containers
- Restriction on the hours of use of particular drinking areas (eg: gardens)
- Capacity limits
- Proof of age cards
- Display of crime prevention notices
- Irresponsible drinks promotions
- Appropriate signage, for example: advertising the normal hours under the terms of the licence and/or, where appropriate, restrictions on admission of children
- Ratio of tables and chairs to customers based on capacity

3. Licensing Objective 2: Public Safety

- 3.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held. Advice is available through the Bracknell Forest Borough Council website, or by contacting the Licensing Authority.
- 3.2 The Licensing Authority is committed to ensuring public safety across the Borough, by working in close partnership with Thames Valley Police, Royal Berkshire Fire and Rescue Service, and licensees.
- 3.3 In order to ensure public safety, the Licensing Authority will consider the attachment, where applicable, of a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority, to control access to and egress from the premises during events.
- 3.4 Where applicable, the Licensing Authority will consider the attachment of a condition to the licence requiring the use of stewards whose role is not to carry out security activity but to provide advice and ensure the safety of those visiting the premises.
- 3.5 Where occupancy limits for a premises, or part of a premises, have been set by the Fire Authority, the Licensing Authority will not normally need to set a capacity limit by way of a licence condition because that would be to duplicate an existing control imposed under another regime.
- 3.6 Where the Fire Authority has not set an occupancy limit the Licensing Authority will, on the advice of the Fire Authority, consider setting an occupancy limit for premises wishing to supply alcohol on the premises to customers after 11pm and/or where regulated entertainment is provided, where this may be beneficial in the promotion of the Licensing Objectives.
- 3.7 The Licensing Authority has a Safety Advisory Group and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the Operating Schedule may be invited to approach the Safety Advisory Group.
- 3.8 When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to Bracknell Forest Borough Council's Safety Advisory Group.
- 3.9 In the interests of public safety and to prevent accidents occurring, where appropriate applicants may be required as part of the licence conditions to provide toughened glass and/or plastic containers for refreshments. This may be particularly relevant for an auditorium, theatre, cinema, sporting occasion or outdoor event.
- 3.10 In the interests of public safety, nightclub owners and dance event promoters are encouraged to seek guidance to ensure the health and safety of anyone attending dance events from the Safer Clubbing Guide by visiting www.drugs.gov.uk.
- 3.11 Where appropriate, there should be provision of drinking-water and trained first aiders with appropriate up-to-date training able to recognise the symptoms caused by the

combination of drugs (including controlled drugs) and alcohol, which can lead to overheating and exhaustion.

- 3.12 The licensee may have a responsibility to develop a Drugs Policy. Advice on methods of preventing the misuse of drugs and related matters can be sought from Bracknell Forest Borough Council's Drug Action team, eg the use of sharp boxes and personal protective equipment in the disposal of drug-related articles found on licensed premises.
- 3.13 The use of special effects such as lasers, pyrotechnics, smoke and foam machines can be dangerous. If it is intended to use any special effects, full details of when and how the effects will be used must be set out in the Operating Schedule and appropriate risk assessments of the location, use and type of special effects should be provided.
- 3.14 If at any time consideration is given to allowing onto the premises animals with the potential to cause harm, eg: animals specified in the Dangerous Wild Animals Act 1976 and Dangerous Dogs Act 1991, the Operating Schedule should set out the circumstances in which such animals would be admitted to the premises, purposes for which they would be there, and the steps which would be taken to ensure the safety of the public, both staff and patrons, while the animals are present.
- 3.15 In appropriate cases where there are no statutory requirements, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Disabled people – effective alarm and evacuation procedures
 - Maintenance of all escape routes and exits including external exits and routes
 - Safety checks and provision of log book
 - Curtains, hangings, decorations and upholstery – maintained and flame-retardant
 - Accommodation capacity limits
 - Fire action notices
 - Notification to fire control centre if water supply is cut off or restricted
 - Fire outbreaks – contacting the Fire Brigade and appropriate record-keeping
 - Access for emergency vehicles
 - First Aid equipment and the number of up-to-date trained first-aiders on site
 - Lighting
 - Monitoring and logging of noise levels by responsible personnel
 - Temporary electrical installation inspections and notification
 - Ventilation
 - Alterations to the premises
 - Use of special effects
 - Additional conditions may be attached to Theatres, Cinemas, Concert Halls and similar places
- 3.16 For indoor sports entertainment, or where special provision must be made for the safety of the public or club members and guests, the Licensing Authority may consider attaching conditions, such as, but not limited to:
- Provision of qualified medical practitioners throughout a sports entertainment
 - Where a ring is involved, that it be constructed by a competent person and inspected by a competent authority and any material used be flame retardant
 - Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring

- Where there is a water sports event, appropriate provision of staff adequately trained in rescue and life safety to be made available who should remain in the vicinity at all times.

4. Licensing Objective 3: The Prevention of Public Nuisance

- 4.1 The Licensing Authority is committed to minimising the level of public nuisance in the Borough by working in close partnership with the Thames Valley Police, Planning, Environmental Health and licensees. The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour.
- 4.2 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 4.3 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the Operating Schedule:
- (a) Measures taken or proposed to be taken to reduce noise and vibration escaping from the premises. This would include music, noise from fixed or mobile equipment (eg: air conditioning, generators), and human voices, whether or not amplified.
 - (b) Measures taken or proposed to be taken to prevent unreasonable disturbance by customers and staff arriving or departing from the premises and delivery of goods and services.
 - (c) Measures taken to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses.
 - (d) In the absence of locally available public transport, sufficient provision for access to taxis and private hire services. For example, lists of licensed taxi companies displayed by the public telephone.
 - (e) Measures taken to encourage patrons to arrive and disperse quickly and quietly from the immediate vicinity of the premises. This might include, for example in nightclubs and discotheques, lowering the volume of the music and raising lights during the last 30 minutes before closing time.
 - (f) Measures taken to ensure the safe removal and dispersal of persons ejected from the premises.
 - (g) Measures to control nuisance that might be associated with the use of the external areas, particularly late at night.
- 4.4 Applicants should note that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include, but are not limited to:
- (a) Planning controls
 - (b) CCTV surveillance
 - (c) The designation of restricted areas for consumption of alcohol
 - (d) Police enforcement
 - (e) Review of Licences and certificates
 - (f) Other local initiatives

- 4.5 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of Regulated Entertainment provided and hours of operation will be suitable for the location in which the premises are situated (eg: areas of dense residential accommodation).
- 4.6 In appropriate circumstances, to prevent public nuisance, the Licensing Authority will consider attaching a condition to the licence requiring the use of Door Supervisors, licensed by the Security Industry Authority, in order to control access to and egress from the premises during events.
- 4.7 The applicant will be expected to demonstrate within the Operating Schedule what actions will be taken to train staff on those measures necessary to stop customers consuming excessive amounts of alcohol whilst on the premises. The effective training of staff in alcohol abuse awareness is appropriate to meet the Prevention of Public Nuisance, Public Safety, and Prevention of Crime and Disorder Licensing Objectives.
- 4.8 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Hours – for example: restrictions on when licensable activities can take place, such as recorded/amplified music and/or speech, after a certain time in indoor and outdoor areas
 - Noise and vibration – abatement, monitoring and logging
 - Noxious smells
 - Light pollution
 - Litter

5. Licensing Objective 4: Protection of Children from Harm

- 5.1 When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 5.2 Applicants are required, where appropriate, to set out in the Operating Schedule the arrangements they have in place to prevent the sale of alcohol and illegal substances to children. This should include an age-monitoring scheme. The Licensing Authority would recommend that the licensee uses any of the following as an acceptable proof of age scheme:
- (a) Passport
 - (b) Photo Card driving licence issued in the European Union
 - (c) Proof of Age Standards Scheme Card (PASS)
 - (d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.
- 5.3 The Licensing Authority will expect applicants to set out in the Operating Schedule the measures that they will take to ensure that alcohol is not sold by persons under 18 unless specifically approved by a responsible person, or they are working as a waiter or waitress in a specially designated part of the premises and alcohol is sold only with a table meal.
- 5.4 Where there are off-licence sales, the Licensing Authority would expect the Operating Schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity. For example, if the licensee has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.
- 5.5 Applicants from retail outlets who use self scanning devices will be expected to demonstrate how they are going to control the sale and purchase of alcohol by persons under the age of 18.
- 5.6 Licensees retain the right to permit or not to permit children into their premises at any time. Where appropriate, applicants should state in the Operating Schedule:
- (a) whether or not they will admit children to the licensed premises;
 - (b) whether or not children will be admitted to all parts of the premises;
 - (c) where children are to be admitted, the steps that will be taken to protect children from harm, for example where deemed appropriate the provision of designated areas for children and families, age (below 18) and hour limitations.
- 5.7 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and illegal substances.
- 5.8 With regard to children, where appropriate licensees will be expected to consider and deal with in the Operating Schedule the risk of children being exposed to and the steps that will be taken to protect them from:
- (a) the purchase, acquisition and consumption of alcohol;
 - (b) likely exposure to drugs, drug-taking or drug-dealing;
 - (c) exposure to activities of an adult and/or sexual nature;
 - (d) exposure to incidents of violence and disorder.

- 5.9 Where appropriate, and particularly with regard to large public events, the Licensing Authority will expect to see in the Operating Schedule procedures for lost and found children.
- 5.10 The Operating Schedule should, in appropriate circumstances, set out the details of the training and information that will be provided for all staff responsible for the sale of intoxicating liquor in premises where children will be admitted.
- 5.11 Where events are taking place that are provided solely for children, for example an Under-18s disco, no alcohol will be served.
- 5.12 In appropriate cases, the Licensing Authority will expect the licensee to evidence how they will supervise children who are performing in a Regulated Entertainment event and what consideration will be given to the welfare of children as performers and customers. Where children are supervised, the Licensing Authority will expect the Operating Schedule to demonstrate that these supervisors have been appropriately checked by the Criminal Records Bureau.
- 5.13 Where there is a sale by retail of alcohol, the Licensing Authority would expect licensees to demonstrate in their Operating Schedule that they will observe industry best practice guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.
- 5.14 Protection of Children from Harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual content. In appropriate cases, the Licensing Authority will expect the licensee to evidence how they intend to prevent these occurrences. This concerns any activities of an adult nature, not just films and videos.
- 5.15 In relation to cinemas and places where films are shown, the Licensing Authority will expect the Operating Schedule to demonstrate that entry shall be controlled as part of an age-monitoring strategy.
- 5.16 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but for the Protection of Children from Harm Licensing Objective the Licensing Authority reserves the right to re-classify any film, and information regarding such classifications will be published on Bracknell Forest Borough Council's website and advertised in the local press.
- 5.17 In appropriate cases, and where its discretion is engaged, the Licensing Authority may attach conditions in line with the promotion of the Licensing Objectives, as listed in the core model conditions, relating to but not limited to:
- Access for children to licensed premises
 - Specific age restrictions
 - Age restrictions in cinemas and theatres
 - Performances especially for children
 - Children in performances, eg: size of venue, fire safety, special effects, care of children
 - Proof of Age Cards
- 5.18 The Licensing Authority has named the Local Safeguarding Children Board as the responsible authority to advise on the protection of children from harm. The LSCB is judged by the Licensing Authority to be a competent body in relation to these matters.
The LSCB has delegated responsibility for this function to Thames Valley Police.

Comment [L7]: Added at suggestion of TVP

PART B

6. Premises Licences

- 6.1 The Premises Licence will detail the operating conditions. The purpose of these conditions is to regulate the use of the premises for licensable activities in keeping with the Licensing Objectives. The Operating Schedule is essential so that the Licensing Authority and responsible authorities can establish what measures may be necessary to meet the four Licensing Objectives.
- 6.2 Where a premises licence is in force and an event outside of the normal Operating Schedule is taking place, the licensee is legally required to notify the Licensing Authority and Police no later than 10 working days prior to the event. However where possible, 3 months' notification of an event is advised to allow full consultation and consideration of the risks involved. More information about Temporary Event Notices can be found in Section 7. Where a premises licence is in force and a licensee wishes to amend the licence to have a particular licensable event on a regular basis, they should go through the variation process.
- 6.3 In the case of circuses, festivals and carnivals, where a Premises Licence or Temporary Event Notice is required, it is the responsibility of the event organiser to ensure that the appropriate licence or authorisation is in place.
- 6.4 The Licensing Authority encourages local Town and Parish Councils to seek premises licences for land or buildings under public ownership within the community. This could include village greens, market squares, community halls and similar public areas, thus allowing festivals, carnivals and circuses to take place and encouraging a livelier community.
- 6.5 The Licensing Authority will not require raffles and tombolas which include alcohol to be licensed provided that:
- (a) the proceeds are not for personal gain;
 - (b) there are no money prizes;
 - (c) alcohol is in a sealed container; and
 - (d) tickets are only sold at the place where the entertainment occurs.

If raffle tickets are sold prior to the event, a lottery registration under the Gambling Act 2005 will be required.

- 6.6 The Operating Schedule, which will form part of the Premises Licence, must include:
- (a) the name of the person (including a business or public body holding a licence);
 - (b) the address of the premises;
 - (c) the licensable activities to be conducted on the premises;
 - (d) the location of licensable activities on the premises (e.g. bar downstairs);
 - (e) the times during which it is proposed that the licensable activities are to take place;
 - (f) any other times when the premises are to be open to the public;
 - (g) where the licence is required only for a limited period, that period must be specified;
 - (h) where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor;
 - (i) where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
 - (j) the licensed area identified by a scaled map;

- (k) a scale drawing of the internal arrangements of the premises; and
- (l) the steps which the applicant proposes to take to promote the Licensing Objectives.

The Operating Schedule should be precise and clear about the measures proposed to promote the licensing objectives.

- 6.7 In order to support the Licensing Objectives, the Licensing Authority would recommend that consideration be given to the training and development of staff. A range of qualifications covering staff development and risk assessments designed to support the Licensing Objectives are available from the British Institute of Innkeeping at www.bii.org.
- 6.8 There is a Standard Pool of Conditions that may be applied in appropriate circumstances. The Licensing Authority's discretion to impose conditions is engaged only if it receives a relevant representation. If relevant representations are made to the Licensing Authority and it is reasonably considered that the Licensing Objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are necessary and proportionate for the promotion of the Licensing Objectives. Licences are sought at very different scales and the Licensing Authority will apply a level of conditions proportionate to the individual style and characteristics of the event or premises concerned. Where measures to promote the Licensing Objectives are included in the Operating Schedule, these will automatically be attached as conditions to the licence.
- 6.9 Prior to submitting an application, the Licensing Authority recommends that applicants seek advice and guidance on matters relating to the Licensing Objectives when completing their Operating Schedules. Details are available in the Guidance Notes for Applicants. This will ensure the application is processed efficiently and will reduce the likelihood of hearings.
- 6.10 Applicants for Premises Licences are expected to conduct a thorough risk assessment on the activities proposed at the premises, giving due consideration to the Licensing Objectives. The licensee will be expected to record the actions to be taken as a result of the risk assessment in their Operating Schedule. These actions may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.
- 6.11 In determining the grant or variation of a licence, the following interested parties and responsible authorities may make representations:
 - (a) Thames Valley Police
 - (b) Royal Berkshire Fire and Rescue Service
 - (c) Environmental Health
 - (d) Trading Standards
 - (e) Local Safeguarding Children Board
 - (f) Health and Safety Executive
 - (g) Persons living in the vicinity of the premises
 - (h) Bodies or persons representing persons living in that vicinity (this may include local Town and Parish Councils and Ward Councillors)
 - (i) Individuals involved in a business in the vicinity
 - (j) Bodies representing persons in such businesses
 - (k) Planning Authority
- 6.12 The Licensing Authority will consider any relevant representations received from these parties. Any of these individuals or groups may specifically request a representative to make representations on his or her behalf. This could be a legal representative, a friend, an MP or a Ward Councillor. However, a Ward Councillor who is a member of the

Licensing and Safety Committee will be advised not to become involved in making either written or oral representations on behalf of constituents regarding matters covered by the Licensing Act 2003. In order for representations to be taken into account, they must concern at least one of the Licensing Objectives. Where a representation is made by an interested party, the Licensing Authority will decide if the representation is relevant and not vexatious or frivolous.

- 6.13 Where the responsible authorities and interested parties do not raise any representations, it is the duty of the Licensing Authority to grant the licence or certificate subject to the conditions of the operating schedule and any mandatory conditions of the Licensing Act 2003 itself.
- 6.14 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of a representation and it has been satisfied at a hearing of the necessity of additional conditions based on the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 6.15 Hearings may be avoided when interested parties, licensees and responsible authorities arrive at an amicable solution to the issues raised through negotiation. The Licensing Authority will seek to facilitate such negotiation.
- 6.16 In determining the application the Licensing Authority will consider:
 - (a) the case and evidence presented by all parties;
 - (b) the promotion of the four Licensing Objectives;
 - (c) guidance issued by central Government; and
 - (d) the Licensing Authority's own Statement of Licensing Policy.

Provisional Statements

- 6.17 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to go through the new licence application procedure. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place there, the licence will be granted.
- 6.18 The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.

Late-Night Refreshment

- 6.19 Where late-night refreshment is provided, applicants must demonstrate in their Operating Schedule how they will promote the Licensing Objectives.
- 6.20 Where appropriate, the Licensing Authority may recommend takeaway containers to display the company name in order for the Licensing Authority to identify sources of litter. Licensees are expected to provide waste disposal bins on or around the premises.

Mobile Premises

- 6.21 Where licensable activities are taking place from or in moveable vehicles they will require a Premises Licence and the Operating Schedule must indicate the specific pitch from which they will trade. This is in addition to other licensing requirements for mobile trading vehicles.
- 6.22 The Licensing Authority requires the Operating Schedule to demonstrate how the applicant will promote the Licensing Objectives.

Disability Access

- 6.23 Due regard is expected to be given to the Disability Discrimination Act 2004, particularly to access and egress for disabled persons.
- 6.24 The Licensing Authority has produced guidance on making the physical environment accessible to disabled people. Advice can be obtained from "Designing for Accessibility in Berkshire". Further information is available on the Council's website or at the Council offices in Time Square, Market Street, Bracknell, RG12 1JD.

Cumulative Effect

- 6.25 Where the Licensing Authority receives relevant representations regarding the 'cumulative impact' of granting a licence, it will fully consider the effect it may have on the promotion of the Licensing Objectives, in particular Crime and Disorder and Public Nuisance, and make a decision accordingly.
- 6.26 If the Licensing Authority receives representation that a particular area of the Borough is reaching a concentration of licensed premises which is adversely affecting the promotion of the Licensing Objectives, it will consider the implementation of an additional policy after full consultation with all responsible bodies and examination of the supporting evidence.

7. Temporary Event Notices

- 7.1 Where there is an event with less than 500 attendees which includes licensable activities for a limited period that is not otherwise authorised by a premises licence or club premises certificate, a Temporary Event Notice will need to be served on the Licensing Authority and Police. Temporary Event Notices are not applications for permission to hold an event, they are notices of intention to hold an event. If there are 500 or more attendees, an application must be made for a Premises Licence.
- 7.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a Temporary Event Notice, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a Temporary Event Notice 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 12 Temporary Event Notices covering a maximum of 15 days may be given in respect of any particular premises in a single calendar year.
- 7.3 Organisers of temporary events are encouraged to submit their notice as soon as is reasonably practicable in order for the Police to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. In order for the Temporary Event Notice to be processed within the appropriate time frame, it is recommended that Temporary Event Notices are submitted to Bracknell Police Station, marked for the attention of the Licensing Officer.
- 7.4 Event organisers are advised to submit their notice to the Licensing Authority on a weekday and before 12 noon on a Friday to ensure a quick and efficient response. It is advised to submit the notice in an envelope marked for the urgent attention of the Licensing Section and for TEN to be written in red in the top right-hand corner.
- 7.5 Although the legal requirement is 10 working days, the Licensing Authority recommends that at least 3 months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 7.6 The Licensing Authority recommends that organisers of a temporary event notify the Fire Authority of the event at the earliest opportunity to ensure that due regard is given to fire safety matters.
- 7.7 In the event of an objection from the Police, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 7.8 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 7.9 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to open for specified extended hours. A minimum of 6 months' notice must be given to the Secretary of State so that consultation can take place and approval of both Houses of Parliament obtained.

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Comment [L8]: Clarified at suggestion of TVP

Deleted: licensees should submit their application to a 24-hour manned police station, details of which are available on www.bracknell-forest.gov.uk or by calling the Licensing Authority on 01344 352000

8. Personal Licences

- 8.1 Personal Licences, which are renewable every ten years, authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a Premises Licence is in force for that activity.
- 8.2 Personal Licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application.
- 8.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 8.4 It is an offence for a Personal Licence holder who is convicted of a relevant offence not to inform the **issuing** Licensing Authority in order that their licence can be amended.
- 8.5 Where a Personal Licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 8.6 The syllabus for the personal licence qualification is available on the Department of Culture, Media and Sport (DCMS) website, which can be found at www.culture.gov.uk. The syllabus sets out the structure for any course that will result in a licensing qualification. Details of those bodies which are accredited to award licensing qualifications are available on the DCMS website.
- 8.7 The Act requires a Designated Premises Supervisor to be nominated who is also a Personal Licence holder, the main purpose being to ensure that there is always one specified individual who can be swiftly identified in cases of emergency. The Designated Premises Supervisor should be an individual who is in charge of the day-to-day running of the premises.
- 8.8 There is no strict legal requirement for the Designated Premises supervisor to be on the premises at all times, but all sales of alcohol must be authorised by either a Personal Licence holder on the premises, or by the Designated Premises Supervisor either on the premises or under authority that has been delegated.
- 8.9 The Licensing Authority recommends that if the Designated Premises Supervisor authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that the duty manager is made aware of the location of the document. Where the Designated Premises Supervisor Licence holder has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.
- 8.10 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises. For example, this would apply to local organisations and groups renting shared community facilities where the Designated Premises Supervisor is a caretaker of the building, not normally present during operational hours when the community hall is in use but who is otherwise in charge of the premises.
- 8.11 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsibility of the Premises Licence holder to notify the Licensing Authority immediately of any change of the Designated Premises Supervisor.

Comment [L9]: Added at suggestion of TVP

8.12 Where there is to be a new Designated Premises Supervisor, the Licensing Authority will require the Premises Licence holder to evidence that the individual concerned consents to taking on the role and to notify the Police of the application within 7 days. In this case, the whole Premises Licence does not have to be submitted for amendment, only the relevant part of the licence.

9. Club Premises Certificates

- 9.1 In order for Qualifying Clubs to supply alcohol and provide other licensable activities on club premises, a Club Premises Certificate is required.
- 9.2 Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making.
- 9.3 The Licensing Authority will require the club to produce an Operating Schedule, which demonstrates how it will promote the Licensing Objectives. The Operating Schedule, which will form part of the Club Premises Certificate, must include:
- (a) the name of the club;
 - (b) the address which is to be the relevant registered address;
 - (c) the address of the club premises to which the certificate relates;
 - (d) the qualifying club activities that will take place on the premises;
 - (e) the location of qualifying club activities on the premises (e.g. bar downstairs);
 - (f) the times at which the qualifying club activities will take place;
 - (g) other times that the premises is open to members and guests;
 - (h) where the supply of alcohol is involved, whether supplies will be made for consumption on or off the premises or both;
 - (i) a plan of the premises drawn to scale; and
 - (j) the steps which the applicant proposes to take to promote the Licensing Objectives.
- 9.4 The Act does not require any member or employee to hold a Personal Licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a Designated Premises Supervisor. However, the Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.
- 9.5 Where a Club intends to admit the general public to a an event where licensable activities will take place, then a Premises Licence or a Temporary Event Notice will be required. Where alcohol is sold and there is a Premises Licence, then there will also be a requirement for a person holding a Personal Licence to be specified as the Designated Premises Supervisor.
- 9.6 If an applicant wishes to vary a Club Premises Certificate, the Act requires the application to be processed in the same manner as for a Premises Licence.

PART C

10. Appeals

- 10.1 Where any condition, decision or relevant representation aggrieves an applicant, there is a right of appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Justices' Chief Executive of the Magistrates' Court, at East Berkshire Magistrates Court, The Law Courts, Chalvey Park, Off Windsor Road, Slough, Berkshire, SL1 2HJ.
- 10.2 In respect of Personal Licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other licences must be made to the Magistrates' Court where the premises or event is situated.

11. Complaints against Licensed Premises

- 11.1 All complaints and representations should be addressed to the Licensing Section, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell, RG12 1JD or licence.all@bracknell-forest.gov.uk.
- 11.2 All relevant **complaints** against premises licensed by the Licensing Authority will be investigated by the Licensing Authority. Whilst complainants will be encouraged to raise any concerns directly with the licensee or business concerned, they will additionally be encouraged to bring the matter to the attention of the Licensing Authority. Where it is a valid complaint, the Licensing Authority will endeavour to seek a resolution through informal means.
- 11.3 The Licensing Authority is responsible for considering representations in the context of this Policy and legal requirements in order to determine whether they are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.
- 11.4 Where it is considered a relevant representation, the Licensing Authority shall ensure that the issue is investigated and enforcement action taken where necessary.
- 11.5 Where a representation is received from an interested party, the Licensing Authority may consider a representation to be frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and to the promotion of the Licensing Objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.
- 11.6 The Licensing Authority recognises that promotion of the Licensing Objectives relies on partnership between licensees, authorised persons, interested parties and responsible authorities. Where there are any concerns or problems identified at the premises or there is need for improvement, authorised persons and responsible authorities will work closely with the licensees at an early stage to address these concerns.
- 11.7 The details of the objector or objectors will be made known to the licensee if his or her representations are deemed relevant and are to be heard in a public domain.

Comment [L10]: Amended for clarity

Deleted: representations

12. Enforcement

- 12.1 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will carry out regular programmed inspections, based on risk assessments. During performance inspections will be carried out without notification to the Premises Licence holder based on risk assessment and complaint history. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are being promoted. Inspection and enforcement will take into account the principles set out in the Hampton report "Reducing Administrative Burdens".
- 12.2 The Licensing Policy has been written in conjunction with the Licensing Authority's Enforcement Policy. This Enforcement Policy has been adopted in accordance with the principles of consistency, transparency, proportionality and objectivity set out in the Enforcement Concordat.
- 12.3 Any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.
- 12.4 The Licensing Authority's Enforcement Policy is available on the Bracknell Forest Borough Council website www.bracknell-forest.gov.uk and from the offices of the Environment, Culture & Communities Department, Time Square, Market Street, Bracknell, RG12 1JD.

13. Licensing and Safety Committee

- 13.1 Decisions on all licensing matters will be taken in public in accordance with an approved scheme of delegation (see Annex B) aimed at underlining the principles of timely, efficient and effective decision-making.
- 13.2 The Licensing Committee will consist of between 10 and 15 members. Licensing Panels of 3 Committee members will determine any applications where relevant representations have been received from responsible authorities and interested parties.
- 13.3 Where there are no relevant representations received in respect of an application for a Premises Licence or a Club Premises Certificate, the Act provides that this application shall be granted with no further conditions other than those stipulated as mandatory in the Act or issues raised in the operating schedule.
- 13.4 Where there are relevant representations received in respect of an application for a Premises Licence or a Club Premises Certificate, the application will be referred to the Licensing Panel.
- 13.5 Where no objection notice is received from the Police in respect of a Temporary Event Notice, the event may take place as proposed.
- 13.6 Where an objection notice is received from the Police in respect of a Temporary Event Notice, the matter will be referred to the Licensing Panel.
- 13.7 The decision determined by the Panel shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other legislation. A summary of the decision shall be posted on the Licensing Authority's website as soon as is reasonably possible after the decision has been confirmed. This will form part of the statutory licensing register which is kept by the Licensing Authority.

14. Applications for Review

- 14.1 A Review of a Premises Licence represents a key protection for the community where problems associated with the Licensing Objectives are occurring after the grant or variation of a premises licence. Where a request to review the licence is made by a responsible authority, the Licensing Authority will hold a hearing, unless the Licensing Authority, the licence holder and responsible authority agree that a hearing is not necessary.
- 14.2 Where the request originates from an interested party (e.g. a local resident, residents association, local business or trade association) the licensing authority must first consider whether the request for review is relevant, vexatious, frivolous or repetitious. A Licensing Authority may refuse an application for a review on any of the above grounds and will give reasons to the applicant for such a refusal.

15. Policy Review

- 15.1 The Policy takes effect on 7 January 2008 and will remain in force for not more than 3 years. It will be subject to periodic reviews and further consultation.
- 15.2 The Licensing Authority is required to review its Licensing Policy Statement every 3 years and shall take into account the views of:
 - (a) Responsible Authorities
 - (b) Holders of Premises and Personal Licences and Club Premises Certificates
 - (c) Local businesses, residents and representatives of these bodies
 - (d) Guidance issued by the Secretary of State under section 182 Licensing Act 2003.

Neighbour Notification Policy

Neighbour notification seeks to ensure that those persons within the Borough who live immediately next to or opposite

- a licensed premises, or
- the proposed site for a licensed premises

are notified when there is a licence application related to that premises or site. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.

This process applies to any of the following:

- Application for new premises licence
- Application to vary premises licence
- Application for new club premises certificate
- Application to vary club premises certificate
- Application for new gambling premises licence
- Application to vary gambling premises licence
- Application for a review of a licence

The use of notification letters is in addition to the statutory requirements that are already in place for applicants to advertise applications in a local newspaper and on a blue notice outside the premises. The letter will contain the name of the premises, brief details of the application and how to get further information or make representations, as detailed on the public notices posted at the premises.

Properties to be notified

Properties to be notified are as follows:

- Properties sharing a common boundary with the premises, including outside areas
- Properties immediately in front of premises (opposite side of road)

The Licensing Officer will use judgement in circumstances where:

- Other parties, not identified as above, may reasonably be considered to be affected.
- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary.

DELEGATION OF FUNCTIONS

Following approval by the Licensing and Safety Committee on 13 December 2004, delegated authority will be as follows.

Matter to be dealt with	Full Committee	Licensing Panel	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary 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 a police objection to a temporary event notice		All cases	

LICENSING ACT 2003 GLOSSARY

Authorised Persons	<p>Bodies empowered by the Act to carry out inspection and enforcement roles. This group includes:</p> <ul style="list-style-type: none"> • Fire Authority Inspectors • Inspectors responsible for the Health and Safety at Work Act 1974 • Environmental Health Officers • Social Services officers responsible for the Protection of Children from Harm <p>Thames Valley Police are separately empowered.</p>
Capacity Limit	<p>Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.</p>
Child	<p>Any person who is under the age of 18 years.</p>
Club Premises Certificate	<p>A certificate authorising the supply of alcohol to members of a Qualifying Club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a Personal Licence.</p>
Council	<p>As far as this Policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.</p>
Cumulative Impact	<p>Where there is a potential impact on the promotion of the Licensing Objectives due to a significant number of licensed premises concentrated in one area.</p>
Designated Premises Supervisor	<p>A specified individual, holding a Personal Licence, who is responsible for the day-to-day running of the business and whose name will appear on the Premises Licence.</p>
Interested Parties	<p>Bodies or individuals who are entitled to make relevant representations or seek a review of a Premises Licence. This group includes:</p> <ul style="list-style-type: none"> • A person, or body representing persons, living in the vicinity of the premises in question. • A person involved in a business in the vicinity of the premises in question. • A body representing persons involved in such businesses, eg: a trade association.
“In the vicinity of”	<p>Whether or not an individual resides “in the vicinity of” the licensed premises is ultimately a matter of fact to be decided by the courts, but initially licensing authorities must decide if the individual or body making a representation qualifies as an interested party. In making their decision, licensing authorities should consider, for example, whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside the premises. In essence, the decision will be approached with common sense and individuals</p>

	living and working in the neighbourhood or area immediately surrounding the premises will be able to make representations.
Late-Night Refreshment	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
Licence Types	<ul style="list-style-type: none"> • Premises Licence • Club Premises Certificate • Personal Licence • Provisional Statement • Temporary Event Notice
Licensable Activities	<ul style="list-style-type: none"> • The sale of alcohol by retail • The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club • The provision of regulated entertainment • The provision of late night refreshment
Licensing Objectives	<ul style="list-style-type: none"> • Prevention of Crime and Disorder • Public Safety • Prevention of Public Nuisance • Protection of Children from Harm
Licensing Qualification	Qualification accredited by the Secretary of State and a requirement for a Personal Licence.
Operating Schedule	<p>This forms part of the completed application form for a Premises Licence and must promote the Licensing Objectives.</p> <p>It must include:</p> <ol style="list-style-type: none"> the relevant licensable activities; the name and address of the person holding the licence; the name of the premises; the times during which the applicant proposes that the relevant licensable activities are to take place; any other times during which the applicant proposes that the premises are to be open to the public; the location of licensable activities on the premises; where the applicant wishes the licence to have effect for a limited period, that period; where the relevant licensable activities include the sale by retail of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor; whether the relevant licensable activities include the supply of alcohol, whether such sales are proposed to be for consumption on the premises on or off the premises, or both; the licensed area identified by a scaled map; a scale drawing of the internal arrangements of the premises; the steps to promote the Licensing Objectives.
Personal Licence	A Licence to authorise individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying on of that activity. Valid for 10 years.

Comment [L11]: Amended at suggestion of TVP

Deleted: obtained

Deleted: from the British Institute of Innkeeping

Premises Licence	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.
Proprietary Clubs	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
Provisional Statement	Where premises are being constructed or extended or substantial structure changes are proposed.
Qualifying Club	<p>Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of Qualifying Clubs are:</p> <ul style="list-style-type: none"> • Conservative, Labour and Liberal Clubs • Royal British Legion • Ex-Servicemen's Club • Working Men's Clubs • Social and Sports Clubs <p>A Qualifying Club can, however, obtain a Premises Licence if it wishes to offer its facilities commercially for use by the general public.</p>
Regulated Entertainment	<p>Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes:</p> <ul style="list-style-type: none"> (a) Performance of a play (b) An exhibition of a film (c) Indoor sporting event (d) Boxing or wrestling entertainment (indoors or outdoors) (e) Performance of live music (f) Any playing of recorded music, except incidental (g) Performance of dance
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003.
Relevant Representations	Representations (objections) made by interested parties and responsible authorities.
Responsible Authorities	<p>This group can make representations and includes public bodies such as:</p> <ul style="list-style-type: none"> • The Chief Officer of Police • The Fire Authority • The Local Enforcement Agency for the Health and Safety at Work etc Act 1974 • The Local Authority (Environmental Health, Planning) • Any body that represents those who are responsible for, or interested in, matters relating to the Protection of Children from Harm. • Any Licensing Authority, other than the originating Licensing Authority, in whose area part of the premises are situated.

SAG	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
Temporary Event Notice	A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a Premises Licence or Club Premises Certificate. This Notice is subject to certain limitations as laid down by the Licensing Act 2003.

RECOMMENDATION

LICENSING AND SAFETY COMMITTEE 14 October 2010

FEES AND CHARGES (Chief Officer : Environment and Public Protection)

1 PURPOSE OF DECISION

- 1.1. Each service area is required to review the fees and charges it levies on behalf of the Council as part of the budget process. Attached to this report are appendices which set out the current and proposed fees. Members are asked to note the proposals and agree that these fees go forward for further discussion and consultation as part of the Council fee setting process.

2 RECOMMENDATIONS

- 2.1. **That, save for the Operator, Hackney Carriage and Private Hire Vehicle licence fees, the Committee recommends to the Executive the new fees and charges detailed in Appendix A, for public consultation.**
- 2.2. **That the committee agrees the proposed charges for Operator and vehicle licence fees are:**
- a) **advertised**
 - b) **if no objections are received, implemented as from 1 April 2011 or**
 - c) **if objections are received, that they be considered by the Committee at the meeting on 13 January 2011.**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

- 3.1 Borough Solicitor
The relevant legal provisions are contained within the main body of the report.
- 3.2 Borough Treasurer
The preliminary budget forecast 2011/12-2013/14 assumed an increase in fees and charges in line with the Council's long term average rate of between 3.25% and 3.75% i.e. 3.5%.
- 3.3 Equalities Impact Assessment
There are no direct consequences of this report for any group and no direct community safety implications.
- 3.4 Strategic Risk Management Issues
There are no issues to consider.

4 SUPPORTING INFORMATION

- 4.1. The Council has given guidance that fees and charges should be increased by 3.5% on average. With respect to Licensing, a number of fees are set by regulation and cannot be changed by the Council.
- 4.2. The Appendices attached to the report include the charges for the services relevant to the Licensing and Safety Committee for the current year and the projected charges

for 2011 / 12 based upon Council guidance. To allow for easy collection, many charges have been rounded to the nearest £1. Overall the effect is a 3.5% increase on those charges that can be adjusted by the Council.

- 4.3. Charges for casinos and other gambling establishments were set at 75% of the statutory maximum fee from September 2007. Officers are of the view that the fees at their present levels are appropriate for cost recovery and should not be increased.
- 4.4. There are proposals for 2 new groups of fees:
 - i) operator 3 year licences and
 - ii) limited street trading licences.Both these additions have come forward following approaches to officers from businesses.
- 4.5. At present we have an Operator Licence which is renewed annually. Operators within the Borough have requested that they should have the opportunity to have a 3 year licence. Such provision has been available to drivers for a number of years and is a popular option. The level of fee has been set at 80% of the equivalent 3 x annual fee to reflect the reduction in costs incurred by the Council in administration.
- 4.6. A Street Trading Licence permits a person to trade from a specific site on an agreed number of occasions. In the vast majority of cases this is 5 to 7 days per week. There is a single charge regardless of the number of days trading. Officers have been approached by a business who wishes to trade a maximum of 2 days per week and trades within neighbouring boroughs on other days. The fee charged must be set to reflect the reasonable costs for the administration, enforcement and maintaining the area, i.e. cleansing associated with the business. The proposal recommends either a 40% or 60% reduction dependent upon the days on which trading takes place and this reflects the worth of the site in terms of potential demand and additional costs incurred by the Council in enforcing and maintaining the site.
- 4.7. Fees charged for the licensing of Hackney Carriage, Private Hire vehicles and Operators are required by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 to be advertised in a local paper with any objections received to be considered by the Committee. The next Committee meeting is 13 January 2011 and, should any objections be received, they could be brought to that meeting, with any recommendations going forward to the Executive for final adoption as part of the overall Council fees and charges process.

Background Papers

None.

Contact for further information

Robert Sexton, Heading of Trading Standards and Licensing, 01344-352000
Robert.sexon@bracknell-forest.gov.uk

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**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT
2010 / 11 PROPOSED FEES & CHARGES**

Purpose of the Charge: To recover the cost of processing applications and monitoring compliance with conditions

LICENSING ACT 2003

The fees for all Licensing Act 2003 permissions are statutory fees set by central Government

Fees for new and variation applications for premises licences and club premises certificates are based on the rateable value of the premises and are as set out below:

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

Rateable value band					
A		100.00		100.00	
B		190.00		190.00	
C		315.00		315.00	
D		450.00		450.00	
E		635.00		635.00	

The fees for new or variation applications for premises licences and club premises certificates where (a) the premises are in Band D or Band E; and (b) the premises are used exclusively or primarily for the supply of alcohol on the premises are as set out below:

Rateable value band					
D		900.00		900.00	
E		1,905.00		1,905.00	

Also, new or variation applications for premises licences and club premises where capacity will exceed 5,000, are subject to an additional fee as set out below:

Number of people in attendance at any one time					
5,000 - 9,999		1,000.00		1,000.00	
10,000 - 14,999		2,000.00		2,000.00	
15,000 - 19,999		4,000.00		4,000.00	
20,000 - 29,999		8,000.00		8,000.00	
30,000 - 39,999		16,000.00		16,000.00	
40,000 - 49,999		24,000.00		24,000.00	
50,000 - 59,999		32,000.00		32,000.00	
60,000 - 69,999		40,000.00		40,000.00	
70,000 - 79,999		48,000.00		48,000.00	
80,000 - 89,999		56,000.00		56,000.00	
90,000 and over		62,000.00		62,000.00	

Premises licences sought for community centres and some schools that permit regulated entertainment of alcohol and/or the provision of late night refreshment will not incur a fee.

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

OTHER FEES

There are other occasions that fees and charges must be paid to the Licensing Authority, as set out below:

Personal Licence Application		37.00		37.00	
Supply of copies of information contained in register		10.50		10.50	
Application for copy of licence or summary on theft, loss etc. of premises licence or		10.50		10.50	
Notification of change of name or address (holder of premises licence)		10.50		10.50	
Application to vary licence to specify an individual as designated premises supervisor		23.00		23.00	
Interim Authority Notice		23.00		23.00	
Application to transfer premises licence		23.00		23.00	
Application for making a provisional statement		315.00		315.00	
Application for copy of certificate or summary on theft, loss etc. of certificate summary		10.50		10.50	
Notification of change of name or alteration of club rules		10.50		10.50	
Change of relevant registered address of club		10.50		10.50	
Temporary Event Notices		21.00		21.00	
Application for copy of notice on theft, loss		10.50		10.50	
Application for copy of licence on theft, loss etc. of personal licence		10.50		10.50	
Notification of change of name or address (personal licence)		10.50		10.50	
Notice of interest in any premises		21.00		21.00	
(Licensing Act 2003) Minor Variation		89.00		89.00	
(Licensing Act 2003) Removal of DPS Condition		23.00		23.00	

ANNUAL FEES

Where premises licences and club premises certificates are issued, the holder shall pay an annual fee as set out below:

Rateable value band					
A		70.00		70.00	
B		180.00		180.00	
C		295.00		295.00	
D		320.00		320.00	
E		350.00		350.00	

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

Where (a) the premises are in Band D or in Band E; and (b) the premises are used exclusively or primarily for the supply of alcohol on those premises, the holder of the licence/certificate shall pay an annual fee as set out below:

Rateable value band					
D		640.00		640.00	
E		1,050.00		1,050.00	

Also where the capacity of the premises exceeds 5,000, the holder of the licence/certificate shall pay an additional fee as set out below:

Number of people in attendance at any one					
5,000 - 9,999		500.00		500.00	
10,000 - 14,999		1,000.00		1,000.00	
15,000 - 19,999		2,000.00		2,000.00	
20,000 - 29,999		4,000.00		4,000.00	
30,000 - 39,999		8,000.00		8,000.00	
40,000 - 49,999		12,000.00		12,000.00	
50,000 - 59,999		16,000.00		16,000.00	
60,000 - 69,999		20,000.00		20,000.00	
70,000 - 79,999		24,000.00		24,000.00	
80,000 - 89,999		28,000.00		28,000.00	
90,000 and over		32,000.00		32,000.00	

OTHER PREMISES LICENSING

GAMBLING ACT 2005

Bingo Club	New Application		2,625.00		2,625.00
	Variation		1,312.50		1,312.50
	Transfer / Reinstatement		900.00		900.00
	Application with Prov Statement		900.00		900.00
	Prov Statement		2,625.00		2,625.00
	Notification of Change		37.50		37.50
	Annual Fee		750.00		750.00
	Copy Licence		18.75		18.75
Adult Gaming Centre	New Application		1,500.00		1,500.00
	Variation		750.00		750.00
	Transfer / Reinstatement		900.00		900.00
	Application with Prov Statement		900.00		900.00
	Prov Statement		1,500.00		1,500.00
	Notification of Change		37.50		37.50
	Annual Fee		750.00		750.00
	Copy Licence		18.75		18.75

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

Betting (Other)	New Application		2,250.00		2,250.00	
	Variation		1,125.00		1,125.00	
	Transfer / Reinstatement		900.00		900.00	
	Application with Prov Statement		900.00		900.00	
	Prov Statement		2,250.00		2,250.00	
	Notification of Change		37.50		37.50	
	Annual Fee		450.00		450.00	
	Copy Licence		18.75		18.75	

*** Licensed Premises Gaming Machine**

	New		150.00		150.00	
	Annual Fee		50.00		50.00	
	Variation		100.00		100.00	
	Transfer		25.00		25.00	
	Copy Permit		15.00		15.00	
	Change Name		25.00		25.00	

****Club Gaming/Permit/Club Machine**

	New		200.00		200.00	
	Annual Fee		50.00		50.00	
	Renewal		200.00		200.00	
	Variation		100.00		100.00	
	Copy Permit		15.00		15.00	

Notification of 2 or less gaming machines

			50.00		50.00	
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Registration of non-commercial lottery

Initial Fee			40.00		40.00	
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Annual Fee			20.00		20.00	
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* Where the applicant for a LPGMP is the holder of a s.34 permit issued under the Gaming Act 1968, the fee for a new permit shall be £100.

** Where the applicant for a club gaming or club machine permit is the holder of a Club Premises Certificate under s.72 of the Licensing Act 2003, or an existing Part II or Part III registration of the Gaming Act 1968, the fee for new permits and renewals is £100.

Sex Establishment: Annual Licence						
Premises - Initial			2,194.00		2,270.00	3.5
Premises - Renewal			1,164.00		1,205.00	3.5

Dangerous Wild Animal: Annual Licence						
Premises - Initial			390.00		404.00	3.6
Premises - Renewal			226.00		234.00	3.5

Riding Establishment: Annual Licence						
Premises - Initial			422.00		437.00	3.6
Premises - Renewal			220.00		228.00	3.6

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%
Provisional - Initial		246.00		255.00	3.7
Provisional - Renewal		124.00		128.00	3.2

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

Animal Boarding Establishment: Annual Licence					
1 - 30 animals	Initial		332.00	344.00	3.6
	Renewal		194.00	201.00	3.6
31 - 60 animals	Initial		392.00	406.00	3.6
	Renewal		211.00	218.00	3.3
61 (or more) animals	Initial		477.00	494.00	3.6
	Renewal		258.00	267.00	3.5
Home Boarding	Initial		120.00	124.00	3.3
	Renewal		100.00	104.00	4.0

Dog Breeders: Annual Licence					
	Initial		400.00	414.00	3.5
	Renewal		180.00	186.00	3.3

Pet Shops: Annual Licence					
	Initial		400.00	414.00	3.5
	Renewal		180.00	186.00	3.3

Performing Animals: Single Payment					
	Registration		80.00	83.00	3.8

Zoo: Annual Licence					
	Initial/Renewal		400.00	414.00	3.5

Special Treatments: Single Payment					
	Premises		195.00	202.00	3.6
	Person		36.00	37.00	2.8

Hairdresser: Single Payment					
	Premises		35.00	36.00	2.9

Street Trading Consents					
	1 week (including 1 assistant)		103.00	107.00	3.9
	1 month (including 1 assistant)		287.00	297.00	3.5
	3 months (including 1 assistant)		656.00	679.00	3.5
	6 months (including 1 assistant)		1,077.00	1,115.00	3.5
	Additional Trading Assistant		36.00	37.00	2.8
	6 Months max 2 trading events per week including Friday, Saturday or Sunday 40% reduction		New	445.00	
	6 Months max 2 trading events per week Monday to Thursday 60% reduction		New	668.00	

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%

Motor Salvage Operator and Scrap Metal Dealer: Three-year Licence					
Motor salvage operator and scrap metal dealer licence		110.00		114.00	3.6

Poisons Act					
Initial registration		31.72		Set by Regulation	
Re-registration		17.65		Set by Regulation	
Change in details of registration		12.15		Set by Regulation	

Explosives					
Licence to store Explosives, Reg 10	Initial 1 year's duration		178.00		178.00
	Renewal of 1 year's duration		83.00		83.00
Registration in relation to storage of explosives, Reg 11	Initial 1 year's duration		105.00		105.00
	Renewal of 1 year's duration		52.00		52.00
Licence to supply fireworks all year, Firework Regulations 2004 (Reg 9)			500.00		500.00

HACKNEY CARRIAGES

PURPOSE OF CHARGE: Contribution towards costs

Hackney Carriages Vehicle: Annual Fee					
Licensing (annual fee)		270.00		284.00	5.2

Private Hire Vehicle: Annual Fee					
Licensing (annual fee)		226.00		234.00	3.5
Home to School (annual fee 50% discount on Private hire vehicle fee)		97.00		117.00	20.6

Operator Licence: Annual Fee					
1 vehicle		150.00		155.00	3.3
2 - 5 vehicles		260.00		270.00	3.8
6 - 10 vehicles		430.00		445.00	3.5
11 - 15 vehicles		600.00		620.00	3.3
16 - 20 vehicles		810.00		840.00	3.7
more than 20 vehicles		980.00		1,015.00	3.6

Description	Current Fee (Inc VAT)	Current Fee (Exc VAT)	Proposed Fee (Inc VAT)	Proposed Fee (Exc VAT)	Increase
	£.p	£.p	£.p	£.p	%
Operator Licence: 3 year licences					
1 vehicle		New		375.00	
2 - 5 vehicles		New		650.00	
6 - 10 vehicles		New		1,070.00	
11 - 15 vehicles		New		1,500.00	
16 - 20 vehicles		New		2,020.00	
more than 20 vehicles		New		2,440.00	
Driver Licences					
Initial		118.00		122.00	3.4
Renewal		88.00		91.00	3.4
Renewal (3 years)		166.00		172.00	3.6
Home to school		72.00		75.00	4.2
Other Charges					
Transfer of vehicle to new owner		40.00		41.00	2.5
Change of vehicle		60.00		62.00	3.3
Meter Test - Retest after failure		25.00		26.00	4.0
Knowledge Test Retest after failure		25.00		26.00	4.5
First Aid Training for drivers		22.00		23.00	4.5
CRB Criminal Records check		At Cost + £11 Admin Fee		At Cost + £11 Admin Fee	0.0
Replacement documents		20.00		21.00	5.0
Advertising on Hackney Carriages (Initial)		31.00		32.00	3.2
Advertising on Hackney Carriages (Renewal)		21.00		22.00	4.8
Replacement Badge		18.00		19.00	5.6
Replacement plate		22.00		23.00	4.5
Replacement backing plate		18.00		19.00	5.6
Medical exemption from carrying assistance dog		17.00		18.00	5.9

RECOMMENDATION

LICENSING AND SAFETY COMMITTEE 14 October 2010

POLICY IN RELATION TO LICENSING OF SEX ESTABLISHMENTS (Chief Officer : Environment and Public Protection)

1 PURPOSE OF DECISION

- 1.1 At its meeting on 29 April 2010 the Licensing and Safety Committee adopted a recommendation that the Council adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009. This recommendation was taken forward to Full Council on 21 July 2010 and approved.
- 1.2 As a Licensing Authority, unlike with the Licensing Act 2003, there is no legal requirement to publish a policy on the licensing of sex establishments; however the Council may, if they feel it appropriate to assist decision making, do so.
- 1.3 The purpose of this report is to put forward a draft Sex Establishment Policy together with guidance notes for applicants for consideration of this Committee prior to wider consultation with the residential and business community of Bracknell Forest, other local agencies such as Thames Valley Police and those responsible for the protection of children and vulnerable adults.

2 RECOMMENDATIONS

That the Committee

- i) comments on the attached draft policy and notes for guidance and**
- ii) approves it for consultation and**
- iii) receives a final copy for consideration at its meeting on 14 January 2011**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The legal implications are identified within the report.

Borough Treasurer

- 3.2 There are no significant financial implications arising from the recommendation in this report.

Equalities Impact Assessment

- 3.3 There are no implications arising from the recommendation in this report.

Strategic Risk Management Issues

- 3.4 There are no strategic risk management implications arising from the recommendation in this report.

4 SUPPORTING INFORMATION

- 4.1 Bracknell Forest has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and is now able to grant, refuse and apply licence conditions to premises that wish to operate as either a sexual entertainments venue, a sex shop or a sex cinema, commonly known collectively as sex establishments.
- 4.2 A Local Authority is not required to have and publish a licensing policy relating to sex establishments and Bracknell Forest presently does not have one.
- 4.3 A licensing policy for sex establishments could include statements about where the Local Authority is likely to consider appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically by reference to a defined locality.
- 4.4 A licensing policy could also be used to indicate how many sex establishments, or sex establishments of a particular kind that the Council consider appropriate for a particular locality.
- 4.5 The Council may also consider it appropriate to produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location considered appropriate for a sex shop may not be considered appropriate for a sexual entertainment venue and vice versa.
- 4.6 Whilst a policy may be in place a Council should not follow that policy inflexibly but should take all relevant factors into consideration and determine each application upon its merits.
- 4.7 When considering applications for the grant of new licences or the variation of existing licences, it is suggested the Council should assess the likelihood of a grant causing adverse impacts upon the community, particularly on local residents. The Council should consider including within its policy the following matters:
- i) type of activity
 - ii) duration of licence
 - iii) proposed hours of operation
 - iv) layout and condition of the premises
 - v) the use to which premises in the vicinity are put
 - vi) the character of the locality in which the premises are situated

Background Papers

Sexual Entertainment Venues – Guidance for England and Wales. Home Office March 2010

Contact for further information

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Bracknell Forest Council
Sex Establishment Policy Statement
October 2010

1. Introduction

- 1.1 This Policy Statement sets out the Bracknell Forest Borough Council guidance, application procedure, terms and conditions and fees regarding the regulation of Sex Establishments.
- 1.2 This document relates to applications for Sex Establishment Licences covering
- Sex Cinemas
 - Sex Shops
 - Sexual Entertainment Venues
- 1.3 This document will guide applicants and the Council when considering applications for Sex Establishment Licences.

2. Definitions

2.1 The Act

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).

2.2 Policy Statement

This refers to the Bracknell Forest Sex Establishment Policy Statement.

2.3 Relevant Locality

The Council has resolved that the Relevant Locality shall be the Ward in which the premises, vehicle, vessel or stall for which the application is being made is situated, or such other area as the Committee considers appropriate as the relevant locality for the application which they are hearing.

2.4 Character of the Relevant Locality

The character or characteristics of the locality where the premises are situated will be instrumental in determining whether or not the granting of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

2.5 The Council

This means Bracknell Forest Borough Council.

2.6 Licensed Premises

This is the premises, vessel, vehicle or stall which is subject to a Sex Establishment Licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Note: Licences are not required for the sale, supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or which primarily relate to birth control.

2.7 Permitted Hours

These are the hours of activity and operation that have been authorised under the Sex Establishment Licence.

2.8. Sex Cinema

- (1) "Sex Cinema" means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which
 - (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage
 - (i) sexual activity or
 - (ii) acts of force or restraint which are associated with sexual activity; or
 - (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions, but does not include a dwelling-house to which the public is not admitted.
- (2) No premises shall be treated as a sex cinema by reason only:
 - (a) if they are licensed under [F1section 1 of the Cinemas Act 1985], of their use for a purpose for which a licence under [F1that section] is required; or
 - [F2(b) of their use for an exhibition to which section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of that Act.]

2.9 Sex Shop

- (1) "Sex Shop" means any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating
 - (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- (2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.
- (3) In this Schedule "sex article" means
 - (a) anything made for use in connection with, or for the purpose of stimulating or encouraging
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
 - (b) anything to which sub-paragraph (4) below applies.
- (4) This sub-paragraph applies:
 - (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (b) to any recording of vision or sound, which:

- (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

2.10 Sexual Entertainment Venue

(1) “Sexual Entertainment Venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

(2) In this paragraph “relevant entertainment” means:

- (a) any live performance; or
- (b) any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

(3) The following are not sexual entertainment venues for the purposes of this Schedule:

- (a) sex cinemas and sex shops;
- (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being so provided at that time;

(1) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;

- (i) no such occasion has lasted for more than 24 hours; and
- (ii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in Sub paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

3. Applications

3.1 Mandatory Grounds for Refusal

Specific mandatory grounds for refusal of a licence are set out in the Act. A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;

- (c) to any person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.2 **Reasons for Refusal of a Licence**

A licence may be refused where:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time which the authority considers is appropriate for the locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard
 - (i) to the character of the relevant locality; or
 - (ii) to the impact upon the locality
 - (iii) to the use to which any premises in the vicinity are put; or
 - (iv) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- (e) Nil may be an appropriate number for the purposes of (c) above.

3.3 **Impact and Location**

In considering applications for the grant of new licences or variation of conditions, the Council will assess the likelihood of a grant causing adverse impacts, particularly on the relevant locality and residents. The Council will take the following general matters into account:

- (i) type of activity;
- (ii) duration of proposed licence;
- (iii) proposed hours of operation;
- (iv) layout and condition of the premises;
- (v) the use to which premises in the vicinity are put;
- (vi) the character of the locality in which the premises are situated.

3.4 In considering all applications for the grant of new licences or applications for variation of conditions, the Council will take into account the potential impacts of the licensed activity on:

- (i) crime and disorder;
- (ii) cumulative impact of licensed premises in the area, including hours of operation;

(iii) the character of the locality in which the premises is situated.

3.5 In considering all applications for renewal the Council will take into account:

- (i) levels of recorded crime and disorder in the area;
- (ii) past demonstrable adverse impact from the activity;
- (iii) whether appropriate measures have been agreed and put into effect by the applicant to mitigate any adverse impacts.

3.6 **Relevant Locality**

In deciding the appropriate number of premises to be licensed, the Committee must consider the character of the relevant locality and what is the appropriate number of sex establishments for the relevant locality. The number can be nil.

In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Committee shall consider, among other considerations, whether the grant of the application would be inappropriate, having to:

- (a) The fact that the premises are sited in a residential area.
- (b) The premises are sited near shops used by or directed to families or children, or on frontages frequently passed by the same.
- (c) The premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples.
- (d) The premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

3.7 **Fitness of Applicant**

An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence or a transfer the Council will in most cases take into account:

- (i) previous knowledge and experience of the applicant;
- (ii) any evidence of the operation of any existing or previous licence held by the applicant, including any licence held in any other Borough;
- (iii) and any report about the applicant and management of the premises received from statutory objectors.

4. **Proposed Operation and Management Policies**

4.1 The Council requires all licensees to ensure that they and their employees comply with all relevant licence conditions and health and safety regulations and that the premises are not a source of nuisance to residents in the vicinity.

4.2 In terms of management of licensed premises, the Council strongly encourages where possible and appropriate that licensees:

- (i) work with statutory agencies such as the Police and the Council in order to create and maintain a safe environment, both within licensed premises and in the environments around them;

- (ii) particularly those whose premises are located in areas with the highest levels of recorded crime, develop crime prevention strategies in consultation with the Police and Council.

4.3 In terms of the management of licensed premises, the Council strongly encourages and where possible and appropriate will require all licensees to develop strategies and procedures to increase access for disabled people to the premises.

4.4 In terms of the employment of staff in licensed premises, the Council requires that all relevant staff be appropriately trained in areas such as health and safety, first aid and fire precautions.

5. Public Notice of Application

5.1 Applicants are required to give public notice of the application by publishing an advertisement in a local newspaper circulating in the area where the premises are situated and to display a similar notice on or near the premises for 21 days beginning with the date of the application.

5.2 A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day following the day the application was given to the Council, where it can be conveniently read from the exterior of the premises.

5.3 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

5.4 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.

5.5 The notice must state:

- (a) details of the application and activities that it is proposed will be carried on or from the premises,
- (b) the full name of the applicant,
- (c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- (d) the date, being 28 days after that on which the application is given to the Council, by which objections may be made to the Council and that the objections should be made in writing,
- (e) a similar notice must be published in a local newspaper or similar document within 7 days of giving the application to the Council.

6. Public Consultation

6.1 Local Residents

The Council will normally consult local residents in relation to applications for the grant or variation of a licence. The nature and extent of consultation will depend on the history of a particular premises and the perceived likelihood of problems occurring and objections being received.

6.2 Consultation with Statutory Agencies and other Organisations

In most cases the Council will consult with all relevant services within the Council and the Fire Authority to ensure that all relevant information is available when considering an application.

6.3 Consultation with Ward Councillors

Relevant Ward Councillors will be notified in writing of all applications for grant or variation of a licence within their Ward.

7. Making an Application

7.1 An application for the grant, variation, renewal or transfer of a licence must be made in writing to the Council in accordance with the requirements set out below. Individuals, limited companies and firms may apply for licences.

7.2 In keeping with the Council's policy on the introduction of e-Government, the Council consents to applications and other notices being given electronically. The address at which the Council will accept applications and notices is:-

- (a) By post / personal service to the Licensing Team, Time Square, Market Street, Bracknell, RG12 1JD
- (b) By e-mail to licence.all@bracknell-forest.gov.uk

7.3 Specimen application forms can be found at Appendices A and B.

8. Application for the Grant of a Licence

8.1 To apply for the grant of a sex establishment licence an applicant must submit:

- (i) A completed application form with the fee;
- (ii) A plan to the scale of 1:100 of the premises to which the application relates showing (inter alia) all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to the street.
- (iii) A site plan scale 1:1250.
- (iv) Drawings showing the front elevation as existing and as proposed to a scale of 1:50.

The applicant must also:

- (v) Display a notice on or near the premises (see Section 5);
- (vi) Advertise the application in a local newspaper;
- (vii) Send a copy of the application and plan to the Chief Officer of Police, (Licensing Officer) at Bracknell Police Station, within 7 days of making the application to the Council.

8.2 Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a Sex Establishment.

8.3 The Council would recommend that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned or that the applicant has sought advice through the pre-application process.

9. Variation of a Licence

9.1 The holder of a Sex Establishment Licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.

9.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.

10. Renewal of a Licence

10.1 The holder of a Sex Establishment Licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.

10.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

11. Transfer of Licence

11.1 A person may apply for the transfer of a licence at any time.

11.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

12. Determination of Applications

12.1 When considering an application for the grant, renewal, variation or transfer of a Sex Establishment Licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.

12.2 All applications for the grant of a **new** Sex Establishment Licence and any other applications where a relevant objection is received will be referred to a Licensing Sub Committee for determination.

12.3 In determining the application the Sub Committee will have regard to this Policy Statement, the application itself and any objections that may have been made. In all cases, each application will be determined on its own merits.

12.4 Any person can object to an application but the objection should be relevant to the grounds set out in **Section 3** above. Objections should not be made on moral grounds or values and the Council should not consider objections that are not relevant to grounds other than those in **Section 3**.

12.5 Objectors must give notice of their objection in writing, stating the general terms of the objections.

12.6 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not, without the consent of the person making the objection, reveal their name or address to the applicant.

13. Hearings

- 13.1 Where applications are referred to a Licensing Sub Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 13.2 The hearing provides all parties to the application including those making objections, the opportunity to air their views openly and will be considered by the Sub Committee.

14. Appeals

- 14.1 There is no right of appeal:
- (i) against the grounds of refusal as detailed in **Section 3.1 (a), (b), (c), (d), and (e)** above, unless the applicant can prove that the ground of refusal does not apply to them, and
 - (ii) against the grounds as detailed in **Section 3.2 (c) and (d)**.
- 14.2 The grounds for refusal under Section 3.2 (c) and (d) above can only be challenged by the applicant by way of judicial review.
- 14.3 All relevant grounds for appeal, other than these detailed at point (i) and (ii) above can be made to the Magistrates' Court within 21 days from the date on which the person is notified in writing of the decision.

15. Fees

- 15.1 The fees for all Sex Establishments (Sex Cinema, Sex Shop and Sexual Entertainment Venue) will be determined annually by the Council
- 15.2 The fees set are deemed to be reasonable to cover the cost of administration, enforcement, the cost of any hearings and are not refundable.

16. Licence Conditions

- 16.1 The Standard Conditions for Sex Establishments are attached at Appendix C.
- 16.2 Under paragraph 8 of schedule 3 the Council may grant to an applicant, and from time to time renew, a licence for Sex Establishment on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of Sex Establishment licence.

17. Human Rights

- 17.1 As far as existing operators are concerned, the Government has decided that 'Grandfather Rights' will not apply. The Transitional Order allows local authorities to refuse applications whether they are from existing operators or new applicants.
- 17.2 When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

17.3 The Council will have regard to the fact that it will be prudent to assume that freedom of expression includes the right to use particular premises as Sexual Entertainment Venues and that a person who is denied the right to use his premises as a Sexual Entertainment Venue where he already has a licence to do so under the Licensing Act 2003 (or in future under the 1982 Act) has been deprived of possessions.

18. Waivers

The Council does not consider that it would appropriate to permit 'Waivers' from the requirement to hold a Sexual Entertainment Venue licence particularly as the legislation allows relevant entertainment on an infrequent basis of no more than 11 occasions within a 12 month period, providing there is at least 1 month between each period of entertainment which itself does not last for more than 24 hours.

19. Duration of Licence

The Council shall, unless there are exceptional circumstances, grant a licence for the maximum duration of one year at a time.

20. Offences

20.1 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that schedule and include:

- Knowingly causing or permitting the use of any premises as Sex Establishment without a licence;
- Being the holder of a licence, knowingly employing a person in a Sex Establishment who is disqualified from holding a licence;
- Being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
- Being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
- Being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 years to enter the establishment;
- Being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

20.2 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

20.3 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty of this offence shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale.

LICENSING AND SAFETY COMMITTEE 14 October 2010

REBALANCING THE LICENSING ACT (Chief Officer : Environment and Public Protection)

1 INTRODUCTION

The Home Office issued a consultation paper "Rebalancing the Licensing Act" on 28 July 2010, with a closing date of 8 September 2010. Officers working with members of the Licensing and Safety Committee drew up a response to the consultation.

2 SUPPORTING INFORMATION

- 2.1. The Home Office Minister in his forward to this consultation said "The Government believes that the Licensing Act is due an overhaul and that through this the power to make licensing decisions needs to be rebalanced in favour of local communities".
- 2.2. A copy of the consultation document is attached to the report as Appendix A.
- 2.3. Officers have considered the questions asked and have sought and received comments from members of this Committee. The comments received have been incorporated within a response which was approved by the Chair of the Committee and sent to the Home Office on 7 September. A copy of this joint member / officer response is attached to the report as Appendix B.

3 IMPACT ASSESSMENT

- 3.1 There are no implications arising from this report.

4 STRATEGIC RISK MANAGEMENT ISSUES

- 4.1 There are no strategic risk management implications arising from this report.

Background Papers

Rebalancing the Licensing act – Home Office –July 2010

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Home Office

REBALANCING THE LICENSING ACT

A CONSULTATION ON EMPOWERING INDIVIDUALS, FAMILIES AND LOCAL COMMUNITIES TO SHAPE AND DETERMINE LOCAL LICENSING

MINISTERIAL FOREWORD



For too long town centres up and down the country have been blighted by crime and disorder driven by irresponsible binge drinking. Local communities have not had a strong enough voice in determining which pubs and clubs should be open

in their area and for how long they should trade. Local authorities have had their hands tied by an overly bureaucratic licensing regime meaning they have not been able to adequately respond to local concerns.

The majority of licensed premises are well run businesses, which provide a valuable service to their local communities and the Government recognises the important role which pubs can play as part of the fabric of neighbourhoods and villages. Whilst tackling alcohol-related crime is a priority for the Government, it will not be addressed at the expense of these responsible businesses. Instead, the Government's approach is to provide greater flexibility for communities to deal with the small minority of irresponsible premises that do not contribute to the well-being of local areas.

The Government believes that the Licensing Act is due an overhaul and that through this, the power to make licensing decisions needs to be rebalanced in favour of local communities. The presumption to approve all new licence applications that is embedded within the Licensing Act must be removed. And in its place a new licensing regime needs to be established with local authorities and the police better able to respond to local residents' concerns. If local communities don't want nightclubs open until six in the morning then the local authority should be able to respond flexibly to this concern. Similarly, if the local community does want a vibrant late-night economy, with premises open into the early hours, then the local authority should have the flexibility to charge a fee to pay for any additional policing this generates. Local tax payers shouldn't simply be left to pick up this cost.

Whilst the Government is determined to remove the bureaucracy behind licensing and to put local communities in the lead, it still has a role in setting the framework for responsible trading. For example, the Government is determined that irresponsible businesses which continue to flout the law by selling alcohol to children should no longer be able to trade. This will send a clear signal about individual behaviour and responsibility, and about what is and what isn't acceptable to the public. The Government is also concerned by those businesses that sell alcohol at a loss in order to gain wider trade. As evidenced by the Competition Commission's Groceries Market Inquiry in 2006-2008, all too often alcohol is sold at a price which simply doesn't reflect its cost. This sort of practice is irresponsible as it can lead to binge drinking and subsequent crime and disorder. The Government therefore intends to ban the sale of alcohol below cost price.

With the changes proposed in this consultation the Government believes the net result will be a fundamental shift in the licensing regime in this country, with more emphasis on local accountability and less emphasis on central interference. We welcome your views on these proposals, and on how they will support local decision making, local accountability, and vibrant local night-time economies.



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1. EXECUTIVE SUMMARY

1.01 Alcohol plays an important part in the cultural life of this country, employing large numbers in production, retail and the hospitality industry. The industry as a whole contributes around £8.5bn to the Exchequer through excise duty alone, and over 200,000 premises have a licence to sell alcohol. Central to this is a system of alcohol licensing that is effective in regulating sales and reflective of local demands. This document sets out the Government's proposals for overhauling the current licensing regime to give more power to local authorities and the police to respond to local concerns about their night-time economy, whilst promoting responsible business. The Government will be consulting separately on the Coalition's proposals to deregulate live music and similar performances.

1.02 Since the introduction of the Licensing Act there has been growing concern that the original vision of a vibrant "café culture" has failed to materialise. The Government intends to introduce more flexibility into the current licensing regime to allow local authorities and the police, to clamp down on alcohol-related crime and disorder hot spots within local night-time economies. To rebalance the licensing regime the Government is proposing the following measures:

- a. Give licensing authorities the power to refuse licence applications or call for a licence review without requiring relevant representations from a responsible authority.
- b. Remove the need for licensing authorities to demonstrate their decisions on licences 'are necessary' for (rather than of benefit to) the promotion of the licensing objectives.
- c. Reduce the evidential burden of proof required by licensing authorities in making decisions on licence applications and licence reviews.
- d. Increase the weight licensing authorities will have to give to relevant representations and objection notices from the police.
- e. Simplify Cumulative Impact Policies to allow licensing authorities to have more control over outlet density.
- f. Increase the opportunities for local residents or their representative groups to be involved in licensing decisions, without regard to their immediate proximity to premises.
- g. Enable more involvement of local health bodies in licensing decisions by designating health bodies as a responsible authority and seeking views on making health a licensing objective.
- h. Amend the process of appeal to avoid the costly practice of rehearing licensing decisions.
- i. Enable licensing authorities to have flexibility in restricting or extending opening hours to reflect community concerns or preferences.
- j. Repeal the unpopular power to establish Alcohol Disorder Zones and allow licensing authorities to use a simple adjustment to the existing fee system to pay for any additional policing needed during late-night opening.
- k. Substantial overhaul of the system of Temporary Event Notices to give the police more time to object, enable all responsible authorities to object, increase the notification period and reduce the number that can be applied for by personal licence holders.
- l. Introduce tougher sentences for persistent underage sales.
- m. Trigger automatic licence reviews following persistent underage sales.
- n. Ban the sale of alcohol below cost price.
- o. Enable local authorities to increase licensing fees so that they are based on full cost recovery.
- p. Enable licensing authorities to revoke licences due to non-payment of fees.
- q. Consult on the impact of the Mandatory Licensing Conditions Order and whether the current conditions should be removed.

2. BACKGROUND

2.01 The police are fighting a constant and expensive battle against alcohol fuelled crime and anti-social behaviour. The last 5 years have introduced a new drinking culture in our towns and cities. The promised “café-culture” from 24 hour licences has not materialised, instead in 2009/10 almost one million violent crimes were alcohol-related and 47% of all violent crime was fuelled by alcohol. A fifth of all violent incidents took place in or around a pub or club, and almost two-thirds at night or in the evening. There are 6.6 million alcohol-related attendances at hospital accident and emergency (A&E) per year at a cost of £645 million. In addition, 1.2 million ambulance call outs each year costing £372 million are alcohol-related. The total costs of alcohol-related crime and disorder to the taxpayer are estimated to be between £8bn and £13bn.

2.02 The majority of people drink responsibly, but not enough has been done to enable local communities to take action against those that don't. It is vital that local communities – the public and their elected representatives – have the powers they need to tackle alcohol-related crime and anti-social behaviour whilst promoting local business and ensuring that those that drink responsibly are not unduly penalised. This challenge has to be achieved within the toughest economic climate for both the public sector and business that has been seen for decades.

2.03 In the past few years, legislation through the Licensing Act 2003, Violent Crime Reduction Act 2006 and Policing and Crime Act 2009 has been introduced to try and tackle the harms that arise from the misuse of alcohol. This legislation has not achieved the previous Government's objectives and has simultaneously introduced unnecessary additional burdens and bureaucracy in the system.

COALITION AGREEMENT

2.04 In the Coalition Agreement, the Government set out a clear programme of reform around alcohol licensing to tackle the crime and anti-social behaviour that is too often associated with binge drinking in the night-time economy. In particular, the Government set out the following five commitments which are covered in this consultation.

- We will overhaul the Licensing Act to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems.
- We will allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children.
- We will double the maximum fine for under-age alcohol sales to £20,000.
- We will permit local councils to charge more for late-night licences to pay for additional policing.
- We will ban the sale of alcohol below cost price.

2.05 A sixth commitment to “review alcohol taxation and pricing to ensure it tackles binge drinking without unfairly penalising responsible drinkers, pubs and important local industries” is being taken forward separately by the Home Office and HM Treasury.

SHIFTING THE BALANCE OF RESPONSIBILITY FOR ALCOHOL RELATED CRIME AND DISORDER

2.06 All too often high streets are filled on a Friday and Saturday night with revellers who are not encouraged to take responsibility for their own actions. They drink to excess and expect the taxpayer to meet the cost of their overindulgence. The Government wants a fundamental shift in responsibilities. Central Government will no longer be the primary driver for reducing and addressing the problems of alcohol-related crime and anti-social behaviour. Local authorities and local communities will have a greater say in what happens in their local area and individuals will become increasingly responsible for their own actions. The Government is committed to challenging the assumption that the only way to change people's behaviour is through adding to rules and regulations. In future, solutions to address alcohol-related problems will be found locally, and by encouraging individuals to take responsibility for their own actions.

STRIKING THE RIGHT BALANCE – PROMOTING BUSINESS AND CRIME PREVENTION

2.07 The government is committed to striking an appropriate balance between supporting business and driving down alcohol-related crime and disorder. Encouraging innovation and supporting economic growth is vital during these challenging economic times. However, the two aims are not mutually exclusive as safer areas are more likely to be vibrant, attracting a greater range of people. There are numerous instances of local businesses working with the police and others to reduce alcohol-related harm whilst promoting their interests. Examples of this working in practice include the Retail of Alcohol Standards Group's Community Alcohol Partnerships which were successfully piloted in St Neots; Business Improvement Districts (BIDs); and the national Best Bar None (BBN) awards scheme.

2.08 BIDs are a public-private partnership in which businesses within a defined area pay a supplementary levy on their business rates, in

order to fund changes that will improve their trading environment and directly benefit their business. For many, this is achieved by implementing crime reduction initiatives that make the public feel safer and more inclined to visit. An excellent example of this initiative is Birmingham's Broad Street BID which covers the entertainment heart of the city. Amongst other things, the BID has developed town centre wardens, taxi marshalls and enhanced cleaning to tackle litter. During the BID's first year, police statistics showed a 60% reduction in general crime and a 28% reduction in violent crime (although it is not possible to conclude how much of the reduction was directly due to the BID).

2.09 The BBN award scheme was set up to acknowledge responsible and well run licensed premises. It provides an excellent way for the police to work with the licensed retail sector to raise standards and reduce crime. However, an additional benefit is that the high profile national awards ceremony attracts positive publicity for both the venue and the area. An excellent example of this is the Doncaster BBN scheme. An evaluation of the Doncaster scheme, carried out by the national BBN team, concluded that the scheme contributed to notable reductions in alcohol-related crime in Doncaster town centre, although the exact percentage amount could not be determined, because it was one of several evening economy measures that took place during this time. The evaluation noted that large reductions in violent offences were being recorded in the majority of BBN premises, and a number of additional benefits to licensed premises as a result of BBN accreditation were also noted.

2.10 Where these types of local schemes emerge the Government will encourage and support them, not interfere with them. Alongside this support, the role of Government is to ensure that the regulatory framework for alcohol reflects the needs of local communities, and empowers local agencies to act on their behalf. This is the focus of this consultation.

3. ABOUT THIS CONSULTATION

3.01 This consultation seeks views on proposals to deliver the Government's commitments on alcohol outlined in the Coalition Agreement. We are keen to hear from everyone who will be affected by the changes, including members of the public who are consumers of alcohol, those who are affected by alcohol-related crime, those that run or work in pubs, clubs, supermarkets and shops, criminal justice agencies, licensing authorities, and trade associations representing those who produce and sell alcohol. As the key commitments outlined have been published in the Coalition Agreement, this consultation primarily seeks views on the implications of implementing the proposals rather than inviting views on the commitments themselves.

3.02 This consultation runs for 6 weeks from 28 July to the 8 September and covers England and Wales, where these proposals apply. The Government has already consulted a number of key partners prior to publishing this consultation, which has included holding 8 meetings with over 55 stakeholders from the on and off trade, alcohol producers, police and local authorities, health and voluntary sectors.

3.03 Information on how to respond to this consultation can be found on the Home Office website at <http://www.homeoffice.gov.uk/about-us/consultations/>. Responses can be submitted online through the Home Office website or by post by sending responses to:

Home Office - Alcohol Strategy Unit,
4th Floor Fry Building,
2 Marsham Street,
London,
SW1P 4DF

You should contact the Home Office Alcohol Strategy Unit by email at Alcohol.consultation@homeoffice.gsi.gov.uk if you require a copy of this consultation paper in any other format, e.g. Braille, Large Font, or Audio.'

DEVOLVED ADMINISTRATIONS

3.04 As most of these new measures will be introduced through the Police Reform and Social Responsibility Bill and include amendments to the Licensing Act 2003, they will only apply to England and Wales. We are yet to decide on how the ban on below cost sales of alcohol will be implemented. Were this ban to be implemented through the Mandatory Code of Practice for Alcohol Retailers or the Licensing Act 2003, it would only apply to alcohol sold in England and Wales. However, there is the possibility that the ban could be implemented across the whole of the United Kingdom if a more appropriate means of introduction is identified.

IMPACT ASSESSMENT

3.05 The impact assessment which accompanies this consultation sets out further details of the estimated benefits and costs, including financial costs. Where costs have been estimated, these should be viewed as indicative only.

4. LICENSING LEGISLATION

4.01. The Licensing Act 2003 became law on 24 November 2005, and regulates licensable activities and qualifying club activities. These activities include:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; and
- The sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place.

4.02. Licensable activities also include the provision of regulated entertainment and late night refreshment (Schedules 1 and 2). An authorisation is required in respect of any licensable activity; authorisation can comprise a premises licence, club premises certificate or temporary event notice and there can be one or more authorisations for the same premises. The processes and procedures governing each form of authorisation are contained in Part 3 (premises licences), Part 4 (club premises certificates) and Part 5 (permitted temporary activities) of the Act.

4.03. The Act introduced a single licence scheme for licensing premises and gave licensing authorities (in the form of a committee of not less than ten nor more than 15 members of the local authority which has responsibility for both personal licences to sell alcohol and premises licences) four licensing objectives, to ensure that licensable activities are carried out in the public interest.

4.04. A licensing authority can be a district or county council, London borough or one of the other bodies listed in section 3(1) of the Act, and its area is defined by reference to that of the corresponding local authority. The licensing authority must carry out its functions under the Act (licensing functions) with a view to:

- promoting the licensing objectives; and
- having regard to the statement of its licensing policy and licensing guidance issued by the Secretary of State.

4.05. The four licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

4.06. The Act enabled flexible opening hours for premises, consideration of the impact of opening hours on local residents and businesses, and gave local residents and businesses the right to make representations about applications. These representations must be based on the fact that one or more of the licensing objectives is being undermined.

4.07. A “responsible authority” (Police, Fire, Health & Safety, Planning, Environmental Health, Child Protection or Trading Standards) or an “interested party” (a person living or involved in business in the vicinity of the premises or a representative body of either) may make representations against an application or apply for a review of a licensed premises providing these objections pertain to the licensing objectives as listed above. A 28 day period is allowed for other responsible authorities or interested parties to also make representations. A hearing is held and those who expressed concerns are given the opportunity to present the issues in front of the licensing committee members. As a result of the hearing for either a licence application or review, the committee will make a decision; this may include refusing or revoking a licence or placing additional conditions on the licence.

5. GIVING MORE LOCAL POWERS TO REFUSE AND REVOKE LICENCES

5.01. Under the provisions in the 2003 Licensing Act there is a fundamental presumption in favour of granting an application for a licence to sell alcohol, which makes it difficult for local authorities to turn down applications. The Government wants to overhaul the licensing system to empower local councils and the police to clamp down on binge drinking hotspots and irresponsible retailers.

5.02. The Government proposes to change the balance of the Licensing Act to make licensing authorities more pro-active and empowered to take decisions. Currently under the Licensing Act a licensing authority can only refuse or remove a licence, or impose conditions on the licence upon review, if it can be proved that this 'is necessary' for the promotion of the licensing objectives and if a relevant representation has been made by a responsible authority. Refusals on this basis are rare partly because the licensing authority is not a responsible authority under the Act.

5.03. To make existing powers stronger and more responsive to local needs, it is proposed that relevant licensing authorities are made responsible authorities under the Licensing Act (or given equivalent powers). This would empower them to refuse, remove or review licences themselves without first having had to have received a representation from one of the other responsible authorities. This will also benefit the Cumulative Impact Policies (see next chapter) because licensing authorities will be able to refuse an application without representation.

Consultation Question 1: What do you think the impact would be of making relevant licensing authorities responsible authorities?

5.04. In making determinations on new and existing licences, licensing authorities are currently required under the Licensing Act to demonstrate that these actions are 'necessary' for the promotion of the licensing objectives in their local area. This places a significant evidential burden on the licensing authority. The Government is considering amending the

Act to reduce the burden on licensing authorities from the requirement to prove that their actions are 'necessary', to empowering them to consider more widely what actions are most appropriate to promote the licensing objectives in their area. All decisions will remain within the framework of promoting the licensing objectives and not any area the licensing authority stipulates. The Government is also exploring possible changes to the licence application process, to shift the onus onto applicants to consider and demonstrate to the licensing authority in their application, how granting their licence application will impact on the local area, and how they will mitigate any potential negative impacts.

Consultation Question 2: What impact do you think reducing the burden of proof on licensing authorities will have?

Consultation Question 3: Do you have any suggestions about how the licence application process could be amended to ensure that applicants consider the impact of their licence application on the local area?

5.05. When determining an application for a premises licence, an application for a licence review or the granting of a personal licence, the licensing authority must have regard to relevant representations or objection notices (in the case of personal licence applications) from the chief officer of police. We propose to strengthen the weight that licensing authorities must give to police representations (including those voiced by the police at a hearing) and objection notices by amending the legislation to require licensing authorities to accept all representations and notices and adopt all recommendations from the police, unless there is clear evidence that these are not relevant.

Consultation Question 4: What would the effect be of requiring licensing authorities to accept all representations, notices and recommendations from the police unless there is clear evidence that these are not relevant?

INVOLVING THE COMMUNITY AND THEIR REPRESENTATIVES

5.06. Licensing authorities currently have to produce and publish a statement of licensing policy for each three year period, which they then have to have regard to when making a determination on a licence application. In producing this statement, the Licensing Act states that the authority must consult the chief police officer for the area, the fire authority and such persons as the authority considers representative of holders of premises licences, club premises certificates, personal licences and local residents and businesses. In reality, some licensing authorities do not consult widely and practitioners have stated that as a result, licensing statements can be too narrowly defined and not representative of the views and needs of the local community.

5.07. To overcome this, the statutory guidance will be revised to encourage licensing authorities to consult more widely when determining their licensing policy statement, without prescribing from the Centre the parties they must consult with. To support licensing authorities in doing this, simple templates for self-assessment (e.g. Those used successfully for the Purple Flag scheme) will be provided within the guidance.

5.08. The Licensing Act 2003 allows local residents to raise concerns regarding new licence applications or existing licensed premises. Local residents are classified as interested parties within the Act, and as such are able to make relevant representations to licensing authorities about the impact of licensed premises on the promotion of the licensing objectives in their area. Relevant representations are considered in the determination of new licence applications and may lead to reviews of existing licences. To reduce any uncertainty amongst residents as to whether or not they are in the vicinity of a premises – and therefore whether they are an interested party – the legislation will be amended to remove the requirement to show vicinity. This means that any person, body or business will be able to make a relevant representation on any premises, regardless of their geographic proximity.

5.09. Currently each local authority is required to have a petition scheme outlining how residents can submit petitions and how the local authority will respond.

Consultation Question 5: How can licensing authorities encourage greater community and local resident involvement?

Consultation Question 6: What would be the effect of removing the requirement for interested parties to show vicinity when making relevant representations?

PUBLIC HEALTH

5.10. The determination of licensing decisions gives little consideration to the views of local health bodies, such as Primary Care Trusts (or their equivalents), as they are not included as responsible authorities within the Licensing Act. This means that they are unable to make representations to the local licensing authorities regarding concerns about the impact of new licensed premises on NHS resources. Designating health bodies as a responsible authority under the Act would enable them to make representations about the impact of new or existing licensed premises on the local NHS (primarily A&E departments and ambulance services) or more generally the safety of the public within the night-time economy. The expectation is that such representations would be based on analysis of the types of data already used to identify problematic premises and local violence hot-spots (e.g. alcohol-related A&E attendances or emergency response statistics), which will reinforce the Coalition Agreement commitment to roll-out A&E data sharing.

Consultation Question 7: Are there any unintended consequences of designating health bodies as a responsible authority?

5.11. Preventing harm to the health of the public is not currently a licensing objective. The Government would welcome views on making the prevention of health harm a material consideration for licensing authorities, either as a fifth licensing objective or as a discretionary power available to the authority where there is a particular local problem. This could allow licensing authorities to take account of local density of premises and hours of sale, and links to local alcohol-related illness and deaths. For example, this could mean restrictions on additional alcohol licences or additional hours of sale, whether within a defined area or within the local authority. Or it could mean encouraging or requiring premises to display sensible drinking messages or to promote low or non-alcoholic drinks.

5.12. This could mark a significant change in approach from the current Act and could have significant implications for businesses that incur additional costs or burden resulting from these decisions, and for their customers. The Government seeks views on how local areas might use this power, the implications for the public, businesses and local services, and whether this approach would be fair, targeted and proportionate.

Consultation Question 8: What are the implications in including the prevention of health harm as a licensing objective?

5.13. The Government considers that there is a case to be made for including additional bodies as interested parties under the Licensing Act. While all individuals resident in the vicinity are entitled to make representations about licence applications or existing licensed premises, the Government considers the scope of interested parties should be increased to cover bodies such as school governors, housing associations and registered social landlords which may wish to make representations as a collective, rather than as individual citizens.

Consultation Question 9: What would be the effect of making community groups interested parties under the Licensing Act, and which groups should be included?

OVERHAULING THE APPEALS PROCESS FOR LICENCE APPLICATION DETERMINATIONS

5.14. The Licensing Act and accompanying guidance sets out the process by which an applicant can appeal against a licence determination. If the licensing authority rejects a new licence application, or an application to vary or transfer a premises licence, the applicant can lodge an appeal against the decision within 21 days of being notified of the determination. An applicant can also appeal against other licensing determinations including personal licence applications, Temporary Event Notices and closure orders. The appeal must be made to the magistrates' court for the petty sessions area. An appeal can be lodged if:

- the licensing authority has rejected the application or imposed conditions outside those specified in the operating schedule accompanying the application or imposed additional conditions necessary for the promotion of the licensing objectives; or,
- the licensing authority rejects an application or takes action to remove a licensable activity from the licence or refuses to specify an individual as a designated premises supervisor.

5.15. Section 181 and Schedule 5 of the Licensing Act 2003 provide for a right of appeal to the magistrates' court against the decisions of licensing authorities. The applicant can appeal a licensing determination on the above grounds. Under the Act, parties who have made relevant representations in regard to a licence application also have a right of appeal against the determination of the licensing authority if they believe that the licence should not have been granted, or that different or additional conditions should have been imposed. These grounds therefore give scope for appeals to be lodged for a number of reasons and increase the burden on both courts and licensing authorities to conduct the appeal.

5.16. If an appeal is lodged against a licence determination, currently the magistrates' court has a number of options when determining an appeal. They can dismiss the appeal, substitute for the decision any other decision the licensing authority could have made, or remit the case to the licensing authority to hear (and dispose of in accordance with the direction of the court).

5.17. If the magistrates' court hears the appeal, case law, which predates the Licensing Act 2003, indicates that the appeal is by way of rehearing (*Sagnata Investments Ltd v Norwich Corpn* [1971]). In doing so, the court will have to regard to the licensing authorities' statement of licensing policy and guidance issued under section 182 of the Licensing Act. The appeals process therefore often takes the power away from the licensing authority to make the final decision on the application.

5.18. The Government is considering options to tighten the appeals process and ensure that fewer appeals are heard in court and that, where possible, the power for determining licensing decisions remains with the licensing authority throughout, while retaining appropriate procedural safeguards. Therefore we propose that remitting the case back to the licensing authority to hear should become the default position although the court will need to retain the power to dismiss the appeal or re-hear it if seen to be necessary. Any proposals taken forward will include safeguards to ensure that Article 6 ECHR rights to a fair trial are not compromised.

Consultation Question 10: What would be the effect of making the default position for the magistrates' court to remit the appeal back to the licensing authority to hear?

APPEALS BY APPLICANTS ON LICENCE REVIEWS

5.19. Reviews of a premises licence can be applied for by either responsible authorities or interested parties under the Licensing Act. Following the hearing, the licensing authority can take a number of actions including, modifying the licence conditions, removing the designated premises supervisor and

suspending the licence for a period of up to 3 months. However the decisions taken by the licensing authority at the review hearing do not take effect until any appeal is disposed of. There is evidence to suggest that some decisions are appealed against purely to ensure that the premises is able to trade during a profitable period (e.g. Christmas), and that the appeal may often be withdrawn once this period had passed. The Government considers that the sanctions imposed by a licensing authority should come into force when the holder of the premises licence receives the determination of the decision from the licensing authority, and that the sanctions should remain unless and until an appeal to the magistrates' court is successful.

Consultation Question 11: What would be the effect of amending the legislation so that the decision of the licensing authority applies as soon as the premises licence holder receives the determination.

6. DEALING WITH THE PROBLEMS OF LATE NIGHT DRINKING

6.01. The Government wants to make sure that all local authorities have the power to address the pressures caused by extensive late night drinking, and the 24 hour licensing culture. The introduction of the Licensing Act has not given local residents any more say in how late their licensed premises can stay open, so more local flexibility is needed in determining closing times and setting the fees to reflect the costs of policing the late night economy.

6.02. The latest figures show that at 31 March 2009 there were 7,178 premises holding licences to retail alcohol for up to 24 hours. Of these, 845 were pubs, bars and nightclubs able to sell alcohol for consumption on the premises for up to 24 hours. The number of premises open to sell alcohol after midnight or between 3am and 6am is not precisely known. Excluding hotels, many of these premises do not actually sell alcohol during these hours, but merely have the authorisation to do so.

EARLY MORNING RESTRICTION ORDERS

6.03. The Crime and Security Act 2010 has an uncommenced power to allow licensing authorities to make Early Morning Restriction Orders (EMROs) which restrict the sale of alcohol between 3am and 6am by any outlet with a premises licence or club premises certificate, if it is considered necessary by the licensing authority for the promotion of the licensing objectives. The aim of EMROs is to provide licensing authorities with an additional tool to use to promote the licensing objectives in their local area, by restricting alcohol sales between certain times. The Government intends to commence this power with a significant amendment to allow local councils to decide between which hours (e.g. from midnight to 6am) they would like to prevent premises from opening, according to what they believe to be most appropriate for their local area. This differs from the current situation which limits local councils to issuing the order only between the hours of 3am and 6am. The change would ensure that licensing authorities are given the freedom to respond to the needs of their local community in determining when premises can sell alcohol.

6.04. The relevant legislation will also be amended so that an EMRO could be created if it was felt to be “beneficial” for the promotion of the licensing objectives rather than if it is felt to be “necessary” as is currently the case, in order to bring it in line with the proposed changes to the Licensing Act in the previous chapter.

Consultation Question 12: What is the likely impact of extending the flexibility of Early Morning Restriction Orders to reflect the needs of the local areas?

ALCOHOL DISORDER ZONES

6.05. Alcohol Disorder Zones (ADZs) were introduced via the Violent Crime Reduction Act 2006. They permit local authorities (with the consent of the police) to designate areas where there are problems with alcohol-related nuisance, crime and disorder as ADZs. In theory ADZs allowed councils to charge a levy on problem premises.

6.06. However, since the regulations for ADZs came into force in June 2008 no local authorities have chosen to establish one in their area. We have received feedback on ADZs from local authorities that indicates that this is due to the lengthy and costly process involved in setting up an ADZ, along with the negative impact creating an ADZ might have on an area’s image.

6.07. Local authorities have shown by not setting up any ADZs that they do not feel this policy is a suitable tool for tackling alcohol-related crime. Accordingly, the Government intends to repeal the legislation enabling ADZs. The policy intention behind ADZs will be met more effectively through the new late night levy, which is covered later in this consultation.

Consultation Question 13: Do you have any concerns about repealing Alcohol Disorder Zones?

CUMULATIVE IMPACT POLICIES

6.08. Cumulative Impact Policies were introduced as a tool for licensing authorities to limit the growth of licensed premises in a problem area. They are a potentially useful tool for licensing authorities to limit the number of licensed premises, but can be used only when they have received relevant representations from a responsible authority on the potential cumulative impact. They are often considered to be bureaucratic for licensing authorities (particularly smaller ones) as the link to the licensing objectives means there is a high evidential burden on responsible authorities before one can be introduced. As of March 2009 there were only 129 Cumulative Impact Policies in place in England and Wales, and when in place they do not necessarily make it easier to refuse licence applications as relevant representations are still required in order for an application to be refused.

6.09. The Government proposes to simplify Cumulative Impact Policies and make them more responsive to local needs. It intends to remove the evidential requirement in order to reduce the burden on licensing authorities and encourage greater use of them. This will give greater weight to the views of local people as the licensing authority will not be constrained by the requirement to provide detailed additional evidence where such evidence is unavailable.

Consultation Question 14: What are the consequences of removing the evidential requirement for Cumulative Impact Policies?

LATE NIGHT LEVY

6.10. The Government intends to legislate to enable licensing authorities to charge a late night levy to help pay for the cost of policing the local night-time economy, where this is deemed necessary.

6.11. It is intended that the levy would be introduced as an additional charge for licensed premises that local authorities have the discretion to introduce. This would apply to premises that have a licence to open beyond a specified time (e.g. all premises that open after midnight on any day of the week).

6.12. It may be possible to use the late night levy either as a means of recovering additional costs related to late night policing (in which case it would be determined by the additional cost of policing in the area it is applied, and the number of premises the cost is divided between). It may also be possible to allow the local authority some discretion over the amount that is charged for the levy.

Consultation Question 15: Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?

6.13. It may be possible to charge different amounts for premises with reductions given to premises that are involved in schemes which reduce additional costs and which are deemed to be "best practice" (for example Best Bar None).

Consultation Question 16: Do you think it would be advantageous to offer such reductions for the late night levy?

6.14. As well as policing, it would be possible to give local authorities the discretion to use the late night levy to fund the additional costs of other services related to the consequence of alcohol on the night time economy such as taxi-marshalling or street cleaning.

Consultation Question 17: Do you agree that the additional costs of these services should be funded by the late night levy?

AMENDING THE STATUTORY GUIDANCE TO MAKE IT CLEAR THAT MEASURES TO LIMIT OPENING HOURS CAN BE CONSIDERED

6.15. The Licensing Act 2003 introduced 24 hour alcohol licences, with the intention of allowing premises to adopt flexible opening hours. The objective was that consideration would be given to the impact of opening hours on local residents and businesses, and as part of this process, the Act gave local residents and businesses the right to make representations to the licensing authority to raise their concerns about new licence applications and the impact of existing licensed

premises on the local area. These representations must be based on the requirement that one or more of the licensing objectives is being undermined.

6.16. The aim behind introducing flexible opening hours was that through an extension of opening hours, concentrations of people leaving licensed premises at a set time should be reduced, with people dispersing more gradually from licensed premises at their different closing times. To this effect, in the guidance issued alongside the Licensing Act 2003, local areas were actively discouraged from implementing measures that could reduce this flexibility such as fixed closing times, staggered closing times and zoning; where fixed closing hours are set within a designated area. Many practitioners have reported that this advice is confusing and contrary to what local areas would like to do.

6.17. The Government intends to amend the guidance to make it clear to local areas that they can make decisions about the most appropriate licensing strategy for their area. Licensing authorities will be encouraged to consider using measures including fixed closing times, staggered closing times and zoning where they are appropriate for the promotion of the licensing objectives in their area. This change acknowledges the fact that different licensing approaches may be best for different areas and will empower licensing authorities to implement a licensing strategy that is best placed to meet the needs of their local area, based on their local knowledge.

Consultation Question 18: Do you believe that giving more autonomy to local authorities regarding closing times would be advantageous to cutting alcohol-related crime?

7. TEMPORARY EVENT NOTICES

7.01. A Temporary Event Notice (TEN) is a notification to the licensing authority that an individual intends to conduct licensable activities on a temporary basis for a period not exceeding 96 hours. There are several other statutory requirements which relate to a TEN, which restrict the number of persons allowed onto the premises, and the number of TENs that can be applied for in a year.

7.02. The TEN must be submitted to the licensing authority and the police at least ten working days in advance of the planned event. Only the police can object to a TEN, and only on crime prevention grounds. The police have 48 hours after the receipt of the TEN to object, and (unless the premises user agrees to modify the TEN) the licensing authority must hold a hearing to consider any objection that has been received. If the licensing authority decides that the objection is valid, it must issue a counter notice to the applicant at least 24 hours before the beginning of the event to prevent it going ahead.

7.03. The Government has recently amended the Licensing Act by Legislative Reform Order (LRO) on 19 July 2010 to extend the police objection period from 48 hours to two working days. The new arrangements, which come into force in October this year, will ensure that the police always have two full days to object to a TEN, even when it is submitted at the weekend or over a Bank Holiday. Restrictions on the use of LROs meant that it was not possible to use this mechanism to make more wide-ranging changes.

7.04. However the Government now has the opportunity to make a number of further simple changes to TENs in order to improve their effectiveness and ensure that events held using TENs are properly regulated. The proposed changes are: giving discretion to licensing authorities to apply existing licensing conditions for the period of a TEN when the applicant is already a licensed premises; extending the period of time that the police have to object (from two to five working days); and extending the right to object to other responsible authorities under the Act, including the right to object under the three other licensing objectives.

7.05. The Government also proposes to give the licensing authority the power to prescribe the exact address to where the TEN should be sent, as there is evidence to suggest that the service of the TEN to 'the relevant chief officer of police' results in delays in the proper person within the police receiving the details of the TEN. The licensing authority would be able to require that the papers be sent to a specific address for each of the responsible authorities under the Act, ensuring that TENs can be dealt with more efficiently.

7.06. The Government intends to amend the TENs structure to increase the period of notice that has to be given to a licensing authority in advance of the event. Currently this is 10 working days, but it is the Government's view that this should be increased to take account of the fact that extending the time that the police have to object to a TEN will impact upon the licensing authority's ability to schedule a hearing in advance of the event to consider any objections. The Government proposes that the legislation be amended so that TENs applied for where an existing premises licence is in operation would have to give a longer period of notice than applications for a TEN where there is no current premises licence. This could mean for example, that premises such as a pub or an off-licence would have to provide notice (for example) one month in advance, whereas a village fete or community event would be required to provide notice (for example) 15 working days in advance of the event.

7.07. The Government also proposes to restrict the number of TENs that a personal licence holder could apply for to 12 in one year. This would correspond with the number of TENs permitted at the same venue. The Government further intends to address the issue of the number of TENs that may be applied for in a single vicinity. Currently, it is possible for a field (for example) to have an unlimited number of TEN applications, with each TEN permitting up to 499 persons at each one. The Government proposes to amend the legislation to ensure that only one TEN would be able to be applied for in events such as this.

Consultation Question 19: What would be the consequences of amending the legislation relating to TENs so that:

- a. All the responsible authorities can object to a TEN on all of the licensing objectives?**
- b. The police (and other responsible authorities) have five working days to object to a TEN?**
- c. The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?**
- d. Licensing authorities have the discretion to apply existing licence conditions to a TEN?**

Consultation Question 20: What would be the consequences of

- a. Reducing the number of TENs that can be applied for by a personal licence holder to 12 per year?**
- b. Restricting the number of TENs that could be applied for in the same vicinity (e.g. a field)?**

8. PROTECTING CHILDREN FROM THE HARM OF ALCOHOL

8.01. The quantity of alcohol consumed by children who drink alcohol has increased significantly in the past decade. The 2008 Smoking Drinking and Drug Use Survey found that the average weekly intake for pupils aged 11-15 who had drunk alcohol in the week before they were surveyed was 14.6 units, this figure has more than doubled since 1990. Beer accounted for half of pupils' weekly intake (7.6 units), followed by alcopops (2.8 units), spirits (2.1 units) and wine (1.8 units).

8.02. Children's drinking is putting increasing pressure on the police and the health services. High levels of alcohol consumption are associated with a range of health harms and high risk behaviours, including unprotected sex and offending. 12,718 children in England aged 11-17 were admitted to hospital in 2008/09 with an alcohol-related condition (3,554 aged 11-15 and 9,164 aged 16-17). The UK has one of the highest rates in the EU of admission to hospital or A&E due to alcohol use by 15-16 year olds.

8.03. Frequency of drinking is associated with offending in children and young people. The 2004 Offending, Crime and Justice Survey found those who drank alcohol once a week or more committed a disproportionate volume of crime, accounting for 37% of all offences reported by 10- to 17-year-olds but only 14% of respondents.

8.04. Despite the growing problem of children's alcohol misuse and the increasing impact on public services, not enough has been done at the local level to limit the availability of alcohol to children. The current powers do not go far enough to prevent selling alcohol to children. Although pupils' access to alcohol is typically by being given it by friends or parents, about half of pupils who have ever drunk also say that they do buy alcohol, despite being well below the age when they can legally do so.

8.05. The Government wants to take tougher action to penalise those premises found to be persistently selling alcohol to children. Currently, if a licence holder pleads not guilty to persistent underage selling and is prosecuted, then they face a fine of up to £10,000 and up to 3 months suspension of their alcohol licence. In

2008 there were 9 prosecutions with 4 fines issued. The average fine issued is £1,713. However, as an alternative to prosecution the police can give the licence holder the option to voluntarily accept a 48 hour closure notice which discharges criminal liability. The 48 hour suspension of alcohol sales was given 54 times in 2008/09. In addition, the police can ask the licensing authority to review the licence although it is not clear how many reviews have been conducted following a licence holder having been found persistently selling alcohol to children.

8.06. In the Coalition Agreement, the Government set out a commitment to double the fine for persistent under-age selling from £10,000 to £20,000. Alongside this, the Government is proposing to extend the period of voluntary closure that can be given by the police as an alternative to prosecution to bring this in line with the increased fine. Currently police can give a closure notice of up to 48 hours, but the Government is considering amending this closure period to set a minimum period of voluntary closure that can be given by the police of 168 hours (7 days) and is inviting feedback on this proposal and a suitable upper-limit for the voluntary closure period. The intention behind setting a minimum and upper limit for the period of voluntary closure is to give police the flexibility to decide upon an appropriate period of voluntary closure as an alternative to prosecution based on the type of premises being sanctioned. This could include consideration of the size of the premises and the type of business. This gives police the power to ensure that the sanction given is a proportionate penalty for the premises found to have committed the offence. Additional guidance will be issued to encourage police to use this sanction flexibly.

Consultation Question 21: Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

Consultation Question 22: What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

8.07. The Coalition Agreement also set out a commitment to allow councils and the police to shut down permanently any shop or bar found to be persistently selling alcohol to children. Although licensing authorities already have the power to review a licence if a licence holder is found to be persistently selling alcohol to children, it is not clear in how many cases this review takes place. The Government is proposing amending the legislation to ensure that all premises found to be persistently selling alcohol to children will have their licence reviewed, regardless of whether they have opted for voluntary closure or prosecution. At the review process the licensing authority has the power to impose a 3 month licence suspension, impose further conditions on the licence or to revoke the licence. Ensuring that licence reviews are automatic in these circumstances gives licensing authorities the power to consider each case and if seen to be necessary, the power to make a decision to revoke the licence.

Consultation Question 23: What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?

9. BANNING BELOW-COST SALES

9.01. There has been a growing concern over the last few years about how cheaply some alcoholic drinks are being sold. We are also aware of the public's unease and their perception of heavily discounted alcohol being a key contributory factor to unacceptable levels of alcohol-related crime and disorder – in many cases as a result of “pre-loading” in preparation for a night out.

9.02. According to the British Crime Survey, over a quarter of local residents perceive drunk and rowdy behaviour to be a problem in their area. There is a belief that most of the alcohol which contributes to this drunk and rowdy behaviour is irresponsibly priced and sold, allowing irresponsible drinkers to be able to get drunk cheaply. Examples of deals such as bottles of cider containing more than the weekly recommended unit guidelines but costing less than the price of a pint of beer in an average pub, continue to contribute to calls for action by Government. Victims of crime and anti-social behaviour, as well as senior figures from the enforcement and health sectors that have first hand experience of tackling the harms caused by excessive and irresponsible consumption, have long called on the Government to take firm action to tackle cheap sales of alcohol.

9.03. We are committed to ensuring that local people are able to enjoy all parts of their community without feeling intimidated by those who have drunk too much alcohol and to reducing the burden on frontline services of dealing with drunken behaviour. As set out in the Coalition Agreement, the government is carrying out a review of alcohol pricing and taxation and associated with this a ban on the sale of alcohol below cost. This consultation will inform the review. For more information go to: http://www.hm-treasury.gov.uk/alcohol_taxation.htm

LEGISLATIVE OPTIONS FOR BANNING BELOW-COST SALES

9.04. The definition of ‘cost’ has implications for the policy, powers required, enforcement and different incentives. The ‘cost’ of an alcoholic product differs between retail businesses as they negotiate their own prices with suppliers, have different internal cost structures and may

base overall profitability on a basket of goods. This can make it difficult for a retailer to prove, or an enforcement authority to check, whether a product has been sold ‘below cost’.

9.05. There are a number of ways in which such a ban might work, and Government must find an approach which is compatible with EU trade and competition laws and realistic to enforce. Most EU countries which have tried similar policies have banned selling below ‘net invoice price’ where the reference price is broadly the unit price on the invoice.

9.06. One option would be to specifically define an ‘average cost’. This might be easier to enforce than determining the true cost of each product, but could be a barrier to trade. An alternative option might be to introduce a mandatory licence condition by amendment to the Mandatory Code of Practice (Mandatory Licensing Conditions) Order 2010 through secondary legislation. Under these circumstances, it would be a breach of the licence condition to sell alcohol below what it cost the premises. This would have the advantage of not having to define what the cost is. Where responsible authorities or interested parties were concerned about the prices being offered in local premises this could trigger a licence review.

Consultation Question 24: For the purpose of this consultation we are interested in expert views on the following.

- a. **Simple and effective ways to define the ‘cost’ of alcohol**
- b. **Effective ways to enforce a ban on below cost selling and their costs**
- c. **The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost, without defining cost.**

10. REDUCING BURDEN AND BUREAUCRACY OF LICENSING AND COVERING ITS COST

INCREASES IN LICENCE FEES

10.01. Licence fees have not been increased since their introduction and therefore some sort of increase is long overdue. This would be hugely welcomed by local authorities who have long argued that their enforcement costs exceed their fee income. The government commissioned Elton Report in 2006 concluded that there was a £43m shortfall for the three year period 2004/05 to 2006/07 and recommended an increase of 7% for the three year period 2007/08 to 2009/10. This has never happened and the Government therefore proposes to enable local authorities to increase the licence fees so that they are based on full cost recovery.

10.02. The Government also acknowledges that adopting a tougher licensing regime as outlined in these proposals may lead to an increase in the number of licence reviews conducted, and a subsequent risk of increased burden on local licensing authorities. Any additional burdens on licensing authorities should also be reflected in the level of licensing fees.

Consultation Question 25: Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?

AUTOMATIC REVOCATION OF LICENCE FOR NON-PAYMENT OF FEES.

10.03. The automatic revocation of licences for non-payment of fees is a simple change that could save local authorities many thousands of pounds currently spent in recovering unpaid annual fees through councils' own recovery sections and bailiffs. A precedent can be found for it in the Gambling Act. The Government proposes to amend the legislation so that a premises licence is automatically revoked if the premises has failed to pay the annual fees.

Consultation Question 26: Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?

DEREGULATION

10.04. In April 2010, the previous administration enacted a Mandatory Code of Practice (Mandatory Licensing Conditions) Order 2010 for Alcohol Retailers, which was intended to be introduced in two stages. The first stage, which took place in April 2010, imposed conditions on licensed premises to:

- (a) Ban irresponsible promotions in the on-trade
- (b) Ban dispensing alcohol directly into the mouths of customers
- (c) Ensure that free tap water was available in all licensed premises in the on-trade

10.05. The legislation for the Mandatory Code contained two further conditions for licensed premises. These will be introduced on 1 October 2010. These conditions were delayed to give business more time to prepare and will mandate all licensed premises to:

- (d) Ensure they have an age verification policy in place
- (e) Ensure they are able to offer smaller servings of beer, wine and spirits.

10.06. As the regulations have been enacted, it is not possible to prevent d) and e) coming into force in October. However, the Government believes strongly that regulation should only be used as a last resort, and that alternatives to regulation should be used wherever possible. We want to take the opportunity of this consultation to give people the chance to comment on the necessity, cost, and impact of the provisions outlined in the mandatory code.

Consultation Question 27: Have the first set of mandatory conditions that came into force in April 2010 had a positive impact on preventing alcohol related crime?

Consultation Question 28: Would you support the repeal of any or all of the mandatory conditions (conditions (a) – (e) above)?

10.07. The Government is also interested in further de-regulating the Licensing Act in order to reduce the administrative burden both on business and licensing authorities. For example the application forms for both a premises licence and a TEN could be reduced, and the requirement on the licensing authority to determine and publish a statement of licensing policy every three years could be removed.

Consultation Question 29: Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or simplified?

11. RESPONSES TO CONSULTATION

11.01. A list of the consultation questions included in this document is below.

- Consultation Question 1: What do you think the impact would be of making relevant licensing authorities responsible authorities?
- Consultation Question 2: What impact do you think reducing the burden of proof on licensing authorities will have?
- Consultation Question 3: Do you have any suggestions about how the licence application process could be amended to ensure that applicants consider the impact of their licence application on the local area?
- Consultation Question 4: What would the effect be of requiring licensing authorities to accept all representations, notices and recommendations from the police unless there is clear evidence that these are not relevant?
- Consultation Question 5: How can licensing authorities encourage greater community and local resident involvement?
- Consultation Question 6: What would be the effect of removing the requirement for interested parties to show vicinity when making relevant representations?
- Consultation Question 7: Are there any unintended consequences of designating health bodies as a responsible authority?
- Consultation Question 8: What are the implications in including the prevention of health harm as a licensing objective?
- Consultation Question 9: What would be the effect of making community groups interested parties under the Licensing Act, and which groups should be included?
- Consultation Question 10: What would be the effect of making the default position for the magistrates' court to remit the appeal back to the licensing authority to hear?
- Consultation Question 11: What would be the effect of amending the legislation so that the decision of the licensing authority applies as soon as the premises licence holder receives the determination.
- Consultation Question 12: What is the likely impact of extending the flexibility of Early Morning Restriction Orders to reflect the needs of the local areas?
- Consultation Question 13: Do you have any concerns about repealing Alcohol Disorder Zones?
- Consultation Question 14: What are the consequences of removing the evidential requirement for Cumulative Impact Policies?
- Consultation Question 15: Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?
- Consultation Question 16: Do you think it would be advantageous to offer such reductions for the late night levy?
- Consultation Question 17: Do you agree that the additional costs of these services should be funded by the late night levy?
- Consultation Question 18: Do you believe that giving more autonomy to local authorities regarding closing times would be advantageous to cutting alcohol-related crime?
- Consultation Question 19: What would be the consequences of amending the legislation relating to TENs so that:
 - a. All the responsible authorities can object to a TEN on all of the licensing objectives?
 - b. The police (and other responsible authorities) have five working days to object to a TEN?
 - c. The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?
 - d. Licensing authorities have the discretion to apply existing licence conditions to a TEN?

- Consultation Question 20: What would be the consequences of:
 - a. Reducing the number of TENs that can be applied for by a personal licence holder to 12 per year?
 - b. Restricting the number of TENs that could be applied for in the same vicinity (e.g. a field)?
- Consultation Question 21: Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?
- Consultation Question 22: What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?
- Consultation Question 23: What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?
- Consultation Question 24: For the purpose of this consultation we are interested in expert views on the following.
 - a. Simple and effective ways to define the 'cost' of alcohol
 - b. Effective ways to enforce a ban on below cost selling and their costs
 - c. The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost, without defining cost.
- Consultation Question 25: Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?
- Consultation Question 26: Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?
- Consultation Question 27: Have the first set of mandatory conditions that came into force in April 2010 had a positive impact on preventing alcohol-related crime?

- Consultation Question 28: Would you support the repeal of any or all of the mandatory conditions?
- Consultation Question 29: Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or simplified?

11.02. The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

11.03. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000, the Data Protection Act (DPA) 1998 and the Environmental Information Regulations 2004.

11.04. If you want other information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

11.05. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

11.06. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

ANNEX A

CONSULTATION CRITERIA

The Consultation follows the Government's Code of Practice on Consultation – the criteria for which are set out below:

Criterion 1 – When to consult – Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2 – Duration of consultation exercises – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3 – Clarity of scope and impact – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4 – Accessibility of consultation exercises – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5 – The burden of consultation – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6 – Responsiveness of consultation exercises – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7 – Capacity to consult – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

CONSULTATION CO-ORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Nigel Lawrence. Please DO NOT send your response to this consultation to Nigel Lawrence. The Co-ordinator works to promote best practice standards set by the Government's Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Co-ordinator can be emailed at: Nigel.Lawrence@homeoffice.gsi.gov.uk or alternatively write to him at:

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APPENDIX B

RESPONSE TO REBALANCING THE LICENSING ACT CONSULTATION

Further to the consultation document recently published by the Home Office, Officers and Councillors from Bracknell Forest Borough Council have considered the issues and have submitted the co-ordinated response set out below.

Question 1

What do you think the impact would be of making relevant licensing authorities responsible authorities?

Answer

There is a need to retain the neutrality and impartiality of the Licensing Authority as a decision making body. To make a Licensing Authority a responsible authority would impact that impartiality and threaten the independence of that role. It is however also vital to have an effective partnership between the responsible authorities and the enforcing role of the Licensing Authority to effectively deal with problem areas and to avoid problems occurring. The Licensing Authority in its role as an enforcer could be improved if it was able to act as a responsible authority that could separately call in a licence for review based upon breaches of licence conditions or complaints regarding breaches of the Licensing objectives. The present requirement to take licence breaches to the Courts is an expensive and time consuming process that could be much better and quickly dealt with by a referral to the Licensing panel who could consider matters such as a restrictions in licensing activities, additional conditions being applied or even suspension or revocation for persistent offenders. The right of appeal to the Magistrates Court would protect the licence holders right to a fair trial.

Question 2

What impact do you think reducing the burden of proof on licensing authorities will have?

Answer

Members of a Licensing Panel are often directed by applicants' representatives on the need to clearly show necessity. This can limit the actions of members who are concerned that their decisions may be successfully challenged. This can detract from the more pragmatic and reasonable approach preferred by members and lead to less effective conditions being applied. A reduction in proof level would be likely to deliver more reasonable and appropriate conditions.

Question 3

Do you have any suggestions about how the licence application process could be amended to ensure that applicants consider the impact of their licence application on the local area?

Answer

A risk based assessment using the licensing objectives should be made by the business and the conclusion of this should be contained within the Operating Schedule. Often the Operating Schedule is just a rehash of another with as minimum information as possible to limit the number of conditions applied. A requirement to produce a risk based assessment as part of the application process would ensure that the applicant adequately considers the impact of their business upon the local community.

Question 4

What would the effect be of requiring licensing authorities to accept all representations, notices and recommendations from the police unless there is clear evidence that these are not relevant?

Answer

As a Local Authority we take all representations, notices and recommendations from the Police into consideration and give appropriate weight to them. Members have the task of evaluating all the information presented in making their decision and it is right that the Police as any other party should be required to support their representation with any relevant evidence, intelligence or experience. As an authority we would not be supportive of any provisions which gave any party to the proceedings a lesser level of evidential requirement than any other.

Question 5

How can licensing authorities encourage greater community and local resident involvement?

Answer

As a Local Authority we have introduced a policy of neighbour notification for any premises licence application except for minor variations. This is restricted to immediate neighbouring properties who will receive brief details of the application and how to make representations. We have found that this has increased the involvement of local residents within the process and led to direct discussions between the applicant and local residents. Where representations are made, we take the lead to hold direct discussions between the applicant and local residents which can lead to additional negotiated conditions being put forward by the applicant. Where agreement cannot be reached the Licensing Panel will receive evidence from all parties with clear indications on the matters where there is agreement or disagreement.

Question 6

What would be the effect of removing the requirement for interested parties to show vicinity when making relevant representations?

Answer

Vicinity is open to a range of interpretations and will and should be interpreted dependent upon the local circumstances for a location. To remove this requirement would open up the process to campaign groups and lobbying which would complicate and add more bureaucracy and delays to the process with no added value. As a Local Authority we always give very careful consideration to representations and whether that person could, given local conditions, be reasonably considered to be in the vicinity and therefore subject to an impact from the licensable activities taking place at the premises.

Question 7

Are there any unintended consequences of designating health bodies as a responsible authority?

Answer

Including a Health Authority as a responsible authority would add further to the process in terms of costs to the applicant, the Licensing Authority and the Health Authority. Given the present geographical sizes of Health Authorities they would be receiving a large number of

applications for new licences and variations of existing licences on an annual basis. We would welcome comment from the Health Authorities as to how they would deal with the applications and coordinate the responses within a time table that is very tight.

Question 8

What are the implications in including the prevention of health harm as a licensing objective?

Answer

It is not felt that adding health harm as an additional licensing objective would add value to the present process but would we would be interested in receiving details of how such an objective has been found to operate within Scotland.

Question 9

What would be the effect of making community groups interested parties under the Licensing Act, and which groups should be included?

Answer

It is the view of this Authority that a community group can be "a body representing persons who live in that vicinity". If the group has no association with persons within the vicinity then permitting such a group to make representations opens the process up to campaign and lobbying and this should be avoided. The present process works well.

Question 10

What would be the effect of making the default position for the magistrates' court to remit the appeal back to the licensing authority to hear?

Answer

It is important that a decision is seen to be taken locally. Redirection of appeals back to the Licensing Authority would assist with that perception however there are likely to be issues with respect to , must a new panel sit for the re hearing, what appeal is there from that decision, can new evidence be introduced?.

Question 11

What would be the effect of amending the legislation so that the decision of the licensing authority applies as soon as the premises licence holder receives the determination?

Answer

This Authority has experience of appeals being started and then dropped to permit the businesses to continue to trade during a busy time or to enable the business to be sold. Should the suggested measure be introduced it is certain that such tactics would be halted. There would be a concern however that immediate cessation could result in claims for compensation upon a successful appeal. A Panel have options which can be suspension, revocation or changing of conditions. The problem is that until an appeal is heard the business can continue to trade under the same conditions and create the same problems. It would be helpful for the Panel to have the ability to impose additional conditions to address matters they see as most serious i.e. removal of the DPS, closing at an earlier time, whilst an appeal is being pursued.

Question 12

What is the likely impact of extending the flexibility of Early Morning Restriction Orders to reflect the needs of the local areas?

Answer

No comment.

Question 13

Do you have any concerns about repealing Alcohol Disorder zones?

Answer

No.

Question 14

What are the consequences of removing the evidential requirement for Cumulative Impact Policies?

Answer

No comment.

Question 15

Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?

Answer

In principle the concept is acceptable however there would be real questions to address in deciding upon the amount of levy, how it would be applied fairly and its administration. We would require much more detail before commenting further.

Question 16

Do you think it would be advantageous to offer such reductions for the late night levy?

Answer

See Question 15.

Question 17

Do you agree that the additional costs of these services should be funded by the late night levy?

Answer

See Question 15.

Question 18

Do you believe that giving more autonomy to local authorities regarding closing times would be advantageous to cutting alcohol-related crime?

Answer

Yes but these powers are already available to licensing authorities at a hearing for any application including reviews.

Question 19

What would be the consequences of amending the legislation relating to TENs so that:

- (a) All the responsible authorities can object to a TEN on all of the licensing objectives?**
- (b) The police (and other responsible authorities) have five working days to object to a TEN?**
- (c) The notification period for a TEN is increased, and is longer for those venues already holding a premises licence?**
- (d) Licensing authorities have the discretion to apply existing licence conditions to a TEN?**

Answer

- (a) This would delay the process and create more work and costs for Licensing Authorities. Experience shows that the main issue for residents from a TEN is Public Nuisance and therefore comment and input from Environmental Health would assist in the provision of events that create fewer complaints. Public Safety is another area of concern and would again be dealt with by Environmental Health.
- (b) This would give the Police and any other Responsible Authorities more time in which to give the event full consideration and respond accordingly. It would also allow time for the Police and any RAs to liaise with the event organiser if clarification or further information was required.
- (c) An increase in the notification period would enable the responsible authorities to assist in delivery of a better planned event. As a Local Authority we encourage organisers to come to the Safety Advisory Group as soon as they have an idea so they can receive assistance to deliver a safe and successful event. It is not seen necessary for licensed premises to have an extended period as this would be seen as unfairly penalising licence holders.
- (d) Existing licence conditions have been arrived at by consultation and agreement as the best way to balance the business needs against residents and other business needs. The right to transfer conditions from a premises licence to a TEN would resolve many of the issues that have occurred within this Authority such as a business having a TEN to create late at night public nuisance which the licence was set up to prevent.

Question 20

What would be the consequences of:

- (a) Reducing the number of TENs that can be applied for by a personal licence holder to 12 per year?**
- (b) Restricting the number of TENs that could be applied for in the same vicinity (e.g. a field?)**

Answer

- (a) The number of TENs has not been an issue in this authority and we do not foresee a negative consequence.
- (b) To circumvent the requirements organisers have segregated different licensable with a number of TENs activities to comply with the limit of 499 persons, even if the event as a whole is much larger. Clarity within the legislation to prevent this would be welcomed.

Question 21

Do you think 168 hours (7 days) is a suitable minimum for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

Answer

It is felt that the existing provision is sufficient. Further action through a review of the licence can be taken where necessary.

Question 22

What do you think would be an appropriate upper limit for the period of voluntary closure that can be flexibly applied by police for persistent underage selling?

Answer

See Question 21.

Question 23

What do you think the impact will be of making licence reviews automatic for those found to be persistently selling alcohol to children?

Answer

This is a matter for local discretion and procedure and should not be imposed by legislation.

Question 24

For the purpose of this consultation we are interested in expert views on the following:

- (a) Simple and effective ways to define the 'cost' of alcohol,**
- (b) Effective ways to enforce a ban on below cost selling and their costs,**
- (c) The feasibility of using the Mandatory Code of Practice to set a licence condition that no sale can be below cost, without defining cost.**

Answer

No comment.

Question 25

Would you be in favour of increasing licence fees based on full cost recovery, and what impact would this have?

Answer

The present fees require that Council tax payers must foot the bill for a significant proportion of the costs associated with the provision of licensing and subsequent enforcement under the Licensing Act 2003. An increase in the fees payable for licences which ensured full cost recovery would enable the Licensing Authority, alongside the responsible authorities to deliver a better resourced and responsive service for both residents and licensed premises.

Question 26

Are you in favour of automatically revoking the premises licence if the annual fees have not been paid?

Answer

Yes. This Authority has many experiences of licensed premises failing to pay for their annual licence. In most cases the costs of chasing the debt and seeking recovery exceed the cost of the licence. The ability to revoke a licence for non payment of the fee, as within most licensing regimes would be welcomed.

Question 27

Have the first set of mandatory conditions that came into force in April 2010 had a positive impact on preventing alcohol-related crime?

Answer

It is too early to tell.

Question 28

Would you support the repeal of any or all of the mandatory conditions?

Answer

No though we would support re-wording the conditions to make them more appropriate and enforceable, especially in respect of the age verification policy.

Question 29

Would you support measures to de-regulate the Licensing Act, and what sections of the Act in your view could be removed or simplified?

Answer

It would be useful for all application forms, including those for variation of DPS and transfer of premises licence to contain a space for the date of birth of a personal applicant, so that the police can carry out appropriate checks to enable them to comment accordingly on the crime and disorder licensing objective.

The requirement to review the Licensing Policy Statement should occur no more than once every 5 years. The authority may review it at any time should it so wish.

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LICENSING AND SAFETY COMMITTEE
14 October 2010

OPERATORS' FORUM
(Chief Officer : Environment and Public Protection)

1 INTRODUCTION

- 1.1. At the last Committee meeting it was commented that members had concerns that the Council were not consulting with all aspects of the taxi trade. The Committee therefore requested officers to look at alternative options so that as wide a consultation process as possible is undertaken.
- 1.2. Officers initiated a meeting with representatives of those persons licensed as "Operators" to explore if such consultation would be welcomed.

2 SUPPORTING INFORMATION

- 2.1. The minutes to the meeting are attached to this report as Appendix A.
- 2.2. It can be seen that a number of issues were raised which were specific to the Private Hire rather than Hackney Carriage aspects of the trade. Work is being undertaken by officers to examine the issues raised with a view to report back to the Operators and the committee. Representatives at the meeting were keen to continue with further dialogue and were supportive of the Council aim to expand consultation to all aspects of the "Taxi" trade.

3 IMPACT ASSESSMENT

- 3.1 There are no implications arising from this report.

4 STRATEGIC RISK MANAGEMENT ISSUES

- 4.1 There are no strategic risk management implications arising from this report.

Background Papers

Contact for further information

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MINUTES

MEETING NAME: Operator Forum

MEETING DATE AND TIME: 11.00 hours Tuesday 27 July 2010

PRESENT: Rob Sexton (RS), Laura Driscoll (LD), Niamh Kelly (NK), Jane Robson (JR), Andy Mason (AM), Dave Park (DP), Dave Hunter (DH), Rob Lawson (RL), Kevin Carter (KC), John Cliffe (JC) and Martin Sheen (MS)

APOLOGIES: John Cole

1.	<p>Are the Council proposing to make private hire vehicles wheelchair accessible?</p> <p>RS said there are no plans for this to happen, LD confirmed that while private hire vehicles can be wheelchair accessible, there are no plans to make this mandatory.</p>	
2.	<p>When are we proposing the next tariff change?</p> <p>RS said there are no plans in place for this to happen at the moment. Most present at the meeting agreed that it would be a bad idea to increase the tariff at this point in time. RS confirmed that hackney carriage fares are determined by a formula which takes into account inflation and the costs of running the vehicle and consultation takes place with the trade and public before implementation</p>	
3.	<p>Additional costs being imposed on drivers by the council</p> <p>JR expressed concerns over the amount of additional costs, i.e. the £50 extra for hackney carriage plates. RS explained that the extra £50 was implemented to pay for the unmet demand survey and this was consulted on and agreed with by the trade.</p> <p>DP commented that licensing fees do not increase in line with the government's charges and taxes and that every year the licensing fees go up.</p> <p>RS confirmed that annual inflation is taken into account in determining licensing fees and comparisons are made with other authority charges. Licensing is required to set charges sufficient to cover the costs of providing the service, which at the moment we are not achieving.</p>	
4.	<p>Police spot checks</p> <p>JR was angry that her vehicles were being stopped by the Police with passengers on board. RS and LD advised that this is an issue that JR would need to raise with the police as the checks are within their remit.</p>	
5.	<p>Why do corporate private hire drivers need a knowledge test?</p> <p>LD and RS are going to look at the possibility of creating a chauffeur</p>	

	<p>badge which would exempt drivers from taking the geographical part of the knowledge test. However the other parts of the knowledge test will still be required.</p>	RS/LD
6.	<p>The implications of the First Aid Course</p> <p>The view was expressed that the first aid course is not appropriate or necessary and should be optional and paid for by the Council. It was mentioned that insurance would not cover drivers to perform first aid.</p> <p>The Committee made the decision for all drivers to do the course every five years so it will remain a condition of the licence. However LD will look into what the course covers to make sure it is relevant and will also raise the issue of insurance liability with the course trainer.</p>	LD
7.	<p>Change to communications with trade</p> <p>It has been proposed that the Council should hold a meeting each quarter with representatives from across the trade. LD confirmed that numbers of attendees would have to be kept to a minimum to ensure they kept to time. No one had any objections. NK to arrange meeting.</p>	NK
8.	<p>AOB</p> <p>RS reminded all those present to respond in writing to his consultation in respect of door signs on private hire vehicles.</p> <p>RS informed everyone that officers have the option to issue fixed penalties to anyone seen smoking in a licensed vehicle, with fines from £60 to £200.</p> <p>JR and DP do not like the procedure for trying to call Licensing. RS reminded everyone that calls have to be logged on the system and we have a target to call back everyone within two working days but in most cases it will be significantly less than that.</p> <p>JR explained that she brought her insurance in on 29 June but had received three suspension letters so she had to provide the documents again. DP complained that he has waited for over an hour to get his documents copied. LD asked that instances such as these be brought to her attention immediately, so she can investigate.</p> <p>RS explained that we are now able to check validity of MOT certificates online, provided we have the 16 digit reference from the V5C log book. RS requested that should owners wish us to do that that they must provide us with a copy of the front sheet of the V5</p> <p>DP wants renewal applications filled out for him so all he has to do is sign, LD advised that many fields are already completed by mail merge from the database but we will see if we can amend any further.</p> <p>DH asked what the policy is on becoming licensed with the PCO. LD confirmed that it appears from the new London legislation that non-PCO operators can operate PCO vehicles. However the vehicle cannot be licensed by BFC and the PCO. RS will check with Legal.</p> <p>DP has requested the reintroduction of the 3-year operator licence. RS did not know why this was removed so will look into it being returned.</p>	<p>LD/ND</p> <p>RS</p> <p>RS</p>