



## **NOTICE OF MEETING**

### **Licensing and Safety Committee**

**Thursday 8 October 2015, 7.30 pm**

**Council Chamber, Fourth Floor, Easthampstead House, Bracknell**

### **To: The Licensing and Safety Committee**

Councillor Allen (Chairman), Councillor Thompson (Vice-Chairman), Councillors Dr Barnard, G Birch, Brossard, Brunel-Walker, Finch, Finnie, Ms Gaw, Leake, Mrs McCracken, Mrs McKenzie, Ms Miller, Porter and Tullett

ALISON SANDERS  
Director of Corporate Services

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If you require further information, please contact: Katharine Simpson  
Telephone: 01344 352308  
Email: [katharine.simpson@bracknell-forest.gov.uk](mailto:katharine.simpson@bracknell-forest.gov.uk)  
Published: 28 September 2015



**Licensing and Safety Committee**  
**Thursday 8 October 2015, 7.30 pm**  
**Council Chamber, Fourth Floor, Easthampstead House,**  
**Bracknell**

Sound recording, photographing, filming and use of social media at meetings which are held in public are permitted. Those wishing to record proceedings at a meeting are however advised to contact the Democratic Services Officer named as the contact for further information on the front of this agenda as early as possible before the start of the meeting so that any special arrangements can be made.

**AGENDA**

Page No

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

Members are asked to declare any personal or disclosable pecuniary interest in respect of any matter to be considered at this meeting.

*Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.*

3. **Minutes**

To approve as a correct record the minutes of the meeting of the Licensing and Safety Committee held on 11 June 2015.

5 - 10

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. **Notice of Public Speaking**

To note those agenda items which have received an application for public speaking

6. **Fees and Charges 2016-2017**

To consider a report seeking approval of the proposed fees and charges for licensable activities for the period 2016-2017.

11 - 22

7. **Taxi and Private Hire Vehicles Licensing Criminal Convictions Policy**  
To consider a report setting out the outcomes of a consultation exercise in relation to proposed changes to the application process for licensing Taxi and Private Hire Vehicle drivers and operators and to consider adopting the proposed changes. 23 - 34
8. **Review of Statement of Licensing Policy**  
To consider the Council's Statement of Licensing Policy prior to its submission to Full Council for approval. 35 - 56
9. **Review of Statement of Gambling Principles**  
To consider the revised Statement of Gambling Principles prior to its submission to Council for approval. 57 - 88
10. **Licensing Panel Hearings**  
To receive and note the minutes of Licensing Panel hearings held since the Committee's last meeting: 89 - 102
- Premises Licence - Pizza Hut 18 June 2015
  - Premises Licence – Co-op Binfield 20 July 2015
  - Premises Licence – Shell Sandhurst 9 September 2015

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**LICENSING AND SAFETY COMMITTEE  
11 JUNE 2015  
7.30 - 8.45 PM**



**Present:**

Councillors Allen (Chairman), Thompson (Vice-Chairman), G Birch, Finch, Ms Gaw, Mrs McCracken, Mrs McKenzie, Ms Miller, Porter and Tullett

**Apologies for Absence were received from:**

Councillors Dr Barnard, Brossard, Brunel-Walker, Finnie and Leake

**4. Declarations of Interest**

There were no declaration of interest.

**5. Minutes**

**RESOLVED** that the minutes of the meetings of the Licencing and Safety Committee held on 9 October 2014 and 27 May 2015 be approved as a correct record and signed by the Chairman.

**6. Urgent Items of Business**

There were no urgent items of business.

**7. Notice of Public Speaking**

It was noted that no members of the public had registered to speak at the meeting.

**8. Health and Safety Plan**

The Committee received a report setting out the Health and Safety Law Enforcement Plan 2015 – 2016. The plan set out the framework within which the Council sought to enable businesses to comply with statutory obligations and was required in order to comply with Section 18 of the Health and Safety at Work Act 1974.

It was reported that as of 1 April 2015 there were 1,522 businesses in Bracknell Forest where the Council had a duty to regulate health and safety in the interests of public safety. Over the course of 2014/15 officers had carried out 353 proactive interventions were undertaken, 109 reactive visits were carried out following the receipt of notifications, enquiries or complaints and 221 enquiries and complaints were receive about working conditions and practices. It was not thought that the publication of new construction regulations (CDM 2015) would impact on the work of the Regulatory Services Team however this would be clarified.

**RESOLVED** that the work undertaken in 2014/15 be noted and the proposed Health and Safety Plan 2015/16 be approved.

## 9. **Annual Service Plan**

The Committee considered a report detailing the activities carried out by the Licensing Section during the period 1 April 2014 to 31 March 2015 and a proposed work plan for the period 2015/16.

Using a risk based assessment programme to visit licensed premises and vehicles to check compliance and provide assistance and advice to those businesses, the Licencing Team carried out 109 programmed inspections and 20 non-programmed inspections over the time period covered by the report. These numbers were lower than those carried out in the previous year (166 and 50 respectively) due to one long term absence on the Team. 1 warning was issued in relation to licensing matters and 264 enforcement points were issued to 26 licensed drivers.

In addition to officer inspections, reports about enforcement concerns were received from a variety of sources including members of the public and the Police. Where a concern was raised these were investigated and the driver or business was given an opportunity to put their side of the story. It was acknowledged that footage from Dash-Cams was proving useful when verifying a complaint.

Joint inspections of licensed vehicles with DVSA, HMRC and the Police would continue and Committee Members would be welcome to attend these.

It was clarified that the law did make provision for the limiting of the number of licensed hackney carriages in an area however a significant volume of survey work must be carried out before hand. It was noted that in Bracknell Forest the trade had requested that a limit of 80 hackney carriage licences be imposed however the resulting survey work had not supported this level so no limit had been set. There were currently 83 operating hackney carriage licenses in the Borough and this was taken as a sign that the market was regulating itself.

Park Homes were licensed under the Caravan Sites and Control of Development Act 1960 and there were 19 licensed sites across the Borough. These were audited in accordance with risk assessments. The Licensing Team was working the Council's Planning Section to ensure that any concerns were addressed appropriately.

It was agreed that a list of all licensed street traders and the number of inspections carried out would be circulated to the Committee.

In response to an enquiry about the impact of the regenerated town centre on the Licensing Team's work load it was reported that licences had already been issued for four premises that were not yet built. Although the future impact on resources was not yet known work would take place to ensure that resources would continue to be utilised to their best possible advantage.

**RESOLVED** that:

- i. The work completed in 2014/15 and detailed within the report of the Chief Officer: Environment and Public Protection be noted
- ii. Subject to any comments, the work plan for 2015/16 be approved

## 10. **Review of Statement of Licensing Policy**

The Committee considered a report setting out the proposed timetable for a review of the Council's Statement of Licensing Policy.

Under the Licensing Act 2003, the Council is required to prepare and publish a Statement of Licensing Policy, setting out the general approach of the licensing authority when making licensing decisions, every five years and Bracknell Forest's Statement had to be reviewed and re-published by 7 January 2016.

The current Statement would be updated to reflect the contents of the latest national guidance (issued in October 2014 and March 2015) and would then be subject to a statutory twelve week consultation period. Consultation would take place with a range of groups including: the local police force, the Fire and Rescue Authority, licence holders, the business community and local residents. It was proposed that any responses to the consultation be considered by a small working group of the Committee in September 2015 before the revised Statement was brought back to the Committee for approval in October 2015. Councillors Porter, Finch and Thompson volunteered to participate in the working group; absent councillors would be canvassed for any additional members. .

It was agreed that the latest national guidance and the proposed new statement would be circulated to the Committee before it went out to consultation.

**RESOLVED** that:

- i. The proposed timetable, as set out in paragraph 5.3, of the report of the Chief Officer: Environment and Public Protection be approved
- ii. The proposed consultee list, as set out in Annex B of the report of the Chief Officer: Environment and Public Protection be approved
- iii. In September 2015, a small working group of the Committee would review the consultation results and the proposed changes before the Statement came back to the Licensing and Safety Committee for approval

#### 11. **Review of Statement of Gambling Principles**

The Committee considered a report setting out a proposed timetable for a review of the Council's Statement of Gambling Principles.

The Statement of Gambling Principles sets out the principles which a licensing authority proposes to apply in exercising their functions under the Gambling Act 2005. Under the Act the Council is required to review and consult upon its Statement every three years from the date of adoption. The Council's current Statement was originally published on 31 January 2013 and in line with requirements the statement had to be reviewed and republished on or before 31 January 2016.

As part of the review consultation would take place with a range of interested parties over a twelve week period. It was proposed that any responses to the consultation be considered by a small working group of the Committee in September 2015 before the revised Statement was brought back to the Committee for approval in October 2015. Councillors Porter, Finch and Birch volunteered to participate in the working group; absent councillors would be canvassed for any additional members.

**RESOLVED** that:

- i. The proposed timetable for the review set out in paragraph 5.3 of the Chief Officer: Environment and Public Protection's report be approved
- ii. The proposed consultee list at Annex B of the Chief Officer: Environment and Public Protection's report be approved

- iii. In September 2015, a small working group of the Committee would review the consultation results and the proposed changes before the Statement came back to the Licensing and Safety Committee for approval

12. **Review of Guidance Notes and Conditions for Hackney Carriage and Private Hire Vehicle Owners, Operators and Drivers**

The Committee considered a report providing an update on recent consultation on the proposed amendments to the Council's Guidance Notes and Conditions document for Hackney Carriage and Private Hire vehicle owners, operators and drivers.

The Guidance Notes set out the legal requirements and licence conditions and provide guidance to the trade and were updated on a regular basis to reflect changes in the law and Council policy. The Committee noted the following proposed material changes:

- A new condition requiring operators to notify the Council of any convictions, cautions or fixed penalties
- A new condition relating to the suitability of base controllers
- A new condition relating to trading names of operators
- A new condition requiring temporary replacement vehicles and those on fleet policies or temporary cover notes to carry a copy of the insurance in the vehicle
- Clarification of three existing conditions

It was questioned whether it would be an appropriate time to review the penalty point scheme for drivers. It was agreed that a working group to review the scheme would be an appropriate way forward however any revisions would have to feed into next year's review process.

**RESOLVED** that:

- i. The results of the consultation, as set out at Annex B of the Chief Officer: Environment and Public Protection's report be noted
- ii. The amendments and additions to the Guidance notes and Conditions documents, as set out at Annex C of the Chief Officer: Environment and Public Protection's report be approved with immediate effect

13. **Criminal Convictions Policy**

The Committee considered a report providing an overview of the criminal convictions element of the 'Fit and Proper' test as currently applied to drivers of Hackney Carriages and Private Hire vehicles and proposing the development of a stand alone policy which would be applied when making decisions as to the granting, suspension or revocation of driver licences.

The Local Government Association suggests that each licensing authority has its own Criminal Convictions Policy and had published a suggested model policy for licensing authorities to adapt. Arising from the subsequent discussion of the model policy the following points were noted:

- If adopted the policy would apply to all new applicants and a decision on whether or not the policy would apply retrospectively to current licence holders could be taken separately

- Concern was expressed over the proposed use of soft intelligence to inform a decision on whether an applicant was a 'fit and proper' person. It was stressed that discretion would be applied when considering soft intelligence. Decisions would be made on a case by case basis and would need to be legally acceptable, proportionate and reasonable
- If officers were minded to revoke or refuse a driver licence then the applicant was given the option to request that a Licensing Panel make the determination. If this was declined by the applicant then the officer has delegated authority to refuse or revoke. Where a decision has been taken by either an officer or a Licensing Panel the applicant can appeal to the Magistrates Court.
- Uber had not yet applied to operate in Bracknell Forest however feedback from neighbouring authorities had, to date, not indicated any concerns about the possible use of unlicensed drivers. If Uber did apply to work in the Borough then the situation would be monitored.

**RESOLVED** that:

- A working group be set up to review a draft Licensing Criminal Convictions Policy prior to its publication for the purposes of consultation
- The results of that consultation be brought back to the Licensing and Safety Committee for further consideration

**14. Fees for Licensing of Private Hire Vehicle Operators**

The Committee received a report setting out proposed amendments to the licensing of operators of private hire vehicles and seeking approval for the introduction of a new set of fees that would be required as a consequence.

The Deregulation Act 2015 would with effect from 1 October 2015 make the default driver licence duration three years and the default operator licence duration 5 years. The Council currently offers the option of a three year licence for drivers and operators licences but does not currently offer a five year operator's licence.

The proposed cost of a five year operator's licence had been calculated according to the administrative costs of setting up the licence in the first year and the cost of enforcement activity in the subsequent years.

To ensure that there was sufficient flexibility within the system it was proposed that the one and three year operator licence options would be retained. It was confirmed that refunds would be given on the unused portion of a five year operator's licence. If a refund was requested then the amount refunded would be less any administrative costs and would be pro rata-ed to the length of time left on the licence.

**RESOLVED** that the proposed charges for five year licences for private hire vehicle operators, as described at Annex A of the Chief Officer: Environment and Public Protection's report, be:

- Advertised; and
- if no objections are received, implemented for any licences commencing from 1 October 2015; or
- if objections are received they be considered at the next meeting of the Licensing and Safety Committee on the 8<sup>th</sup> October 2015

15. **Taxi and Private Hire Vehicles Licensing Councillor Handbook**

The committee received a report providing the most recent version of the Local Government Association's (LGA) Taxi and Private Hire Vehicles Licensing Councillor Handbook, which had been published in March 2015.

The Handbook had been developed by the LGA to help councillors understand the key issues in the licensing of Taxis and Private Hire Vehicles and provided a number of tools that had been developed to help them to assist with the effective regulation of the area. The handbook also detailed a number of questions that councillors might ask to gauge the effectiveness of their local authority in providing a competent licensing service and the report set out the Licensing Team's response to these questions.

The committee noted the report.

16. **Licensing Act Deregulation Update**

The Committee received and noted a report providing an update on the deregulation of activities previously licensable under the Licensing Act 2003.

17. **Exclusion of Public and Press**

**RESOLVED** that pursuant to Section 100A of the Local Government Act 1972, as amended, and having regard to the public interest, members of the public and press be excluded from the meeting for the consideration of the following item which involves the likely disclosure of exempt information under the following category of Schedule 12A of that Act:

- (1) Information relating to any individual (Item 16).

18. **Appeal to Magistrates' Court**

The Committee received and noted a report providing an update on a recent Magistrates Court Appeal decision following a Licensing Panel decision to turn down an application to extend the opening hours of a McDonalds restaurant in Wildridings.

**CHAIRMAN**

**TO: LICENSING AND SAFETY COMMITTEE  
8 OCTOBER 2015**

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**FEES AND CHARGES 2016-2017  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 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 is an appendix which set out the current and proposed fees for licensing matters.
- 1.2 Members are asked to note the proposals and agree these fees go forward for further discussion and consideration as part of the Council fee setting process.

**2 RECOMMENDATIONS**

- 2.1 **That, save for the private hire operator, and hackney carriage and private hire vehicle licence fees, the Committee recommends to the Executive the new fees and charges detailed in Annex A, for public consultation.**
- 2.2 **That the Committee agrees that the proposed charges for operators and vehicle licence fees are:**
  - a) **advertised;**
  - b) **if no objections are received, implemented for any licences commencing from 1 April 2016; or**
  - c) **if objections are received they be considered by the Committee at the meeting on 7 January 2016.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The recommendations recognise restrictions placed by statute, Council and legal guidance on the recovery of costs, and the possible impact upon local businesses of licence fees. The recommendations reflect, in the officer view, the best compromise given the parameters in place.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are a number of alternative options to consider, ranging from no increase to increases across the board. There are legislative restrictions upon the maximum charge that can be made in some cases, and also legislation which restricts those elements of the service provided by a Licensing Authority that are chargeable and non-chargeable through the provision of a licence. Officers in drawing up these proposed fees have done so with consideration of the legal constraints in place.

**5 SUPPORTING INFORMATION**

- 5.1 The Council has given guidance that fees and charges should be increased on average by 1% which takes account of inflationary pressures and staff costs. A significant number of fees within the licensing field are set by Government regulation and cannot therefore be changed by the Council.

- 5.2 Recent Court decisions have made it clear that the Council when setting the level of fees may set them at cost recovery but it must not set them to make a profit. In addition if there are any surpluses or deficits from fees levied in the previous years these must be taken into account when setting any new fees. Officers can confirm that overall the Licensing service is running at a deficit and there are no surpluses to take into account.
- 5.3 The appendices attached to the report include the charges relevant to this Committee for the current year, alongside proposed changes for 2016/17. These proposed charges have taken into account guidance on fee setting by the Council, legislation and impact upon the business community. The fees recommended are proposed having due regard to the legal provisions and are recommended to increase where it is judged that it would be legally compliant to do so.
- 5.4 On some of the smaller fees less than £40 where above inflation rises have occurred within the last 2 years, no change is recommended. Fees that have not risen in the last 2 years may have increased by more than 1%. Charges for gambling establishments under the Gambling Act 2005 are set at 75% of the statutory maximum. The statutory fee has not changed since first implemented by regulations in 2007. Given the nature of the premises within the Borough and the workload associated with them officers are of the view that fees at their present levels are still set at level which are judged as sufficient for cost recovery.
- 5.5 Any increase in fees charged for the licensing of hackney carriages, home to school and private hire vehicles and operators are required by Section 70 Local Government (Miscellaneous Provisions) Act 1976 to be advertised and any objections received to be brought back to this Committee for consideration. It is recommended that in the event of objections being received they be considered at the next Committee meeting on the 7 January 2016. These fees would then be included within the Council process for final adoption as part of the overall Council fees and charges process.
- 5.6 The fees in respect of 5 year private hire vehicle operator licences were agreed for consultation by the Licensing and Safety Committee at its last meeting in June, and subject to no objections being received, came into force on 1 October 2015.
- 5.7 Fees under the Licensing Act 2003 were set in 2005 when the legislation was implemented. They have not been adjusted since, other than for the introduction of fees for new processes such as minor variation applications. The Police Reform and Social Responsibility Act 2011 amended the 2003 Act to introduce a power for the Home Secretary to prescribe in Regulations that future fee levels should be set by individual licensing authorities to enable them to recover their licensing costs. The Committee may recall the information report brought in June 2014 on the Locally Set Fees consultation which was run by the Home Office. In the period since no changes have been introduced and there is no indication at this time that any change is imminent.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 The relevant legal provisions are contained within the main body of the report.

Borough Treasurer

- 6.2 The Council's guideline for increasing fees and charges for 2016/17 is 1%, where it is considered appropriate the fees and charges in this report have been increased by this amount.

Equalities Impact Assessment

- 6.3 There are no direct consequences in this report for any group.

Strategic Risk Management Issues

- 6.4 There are no issues to consider.

**7 CONSULTATION**

Principal Groups Consulted

- 7.1 There are certain legal provisions requiring consultations and these will be conducted. The remaining fees and charges will be subject to the Council consultation process.

Method of Consultation

- 7.2 The main set of fees and charges will form part of the budget consultation process. The taxi charges have to follow a prescribed process.

Representations Received

- 7.3 No process undertaken at the time of writing the report

Background Papers

None

Contact for further information

Robert Sexton  
Head of Regulatory Services  
01344 352580  
[Robert.sexton@bracknell-forest.gov.uk](mailto:Robert.sexton@bracknell-forest.gov.uk)

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**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

Annex A

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

	<b>2015/16 Budget</b>	<b>Proposed 2016/17 Budget</b>
	<b>274,400.00</b>	<b>276,500.00</b>
<b>Income the proposed fees will generate:</b>		

**Are concessions available?** No  
**Link to the Council's Medium Term Objectives:** To create a Borough where people are safe and feel safe.

**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 (Exc VAT)	Proposed Fee (Exc VAT)
Rateable value band		
A	100.00	Set by Statute
B	190.00	Set by Statute
C	315.00	Set by Statute
D	450.00	Set by Statute
E	635.00	Set by Statute

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	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
D	900.00	Set by Statute
E	1,905.00	Set by Statute

Also, new or variation applications for premises licences and club premises where capacity will exceed 5000, are subject to an additional fee as set out below:

Number of people in attendance at any one time	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
5,000 - 9,999	1,000.00	Set by Statute
10,000 - 14,999	2,000.00	Set by Statute
15,000 - 19,999	4,000.00	Set by Statute
20,000 - 29,999	8,000.00	Set by Statute
30,000 - 39,999	16,000.00	Set by Statute
40,000 - 49,999	24,000.00	Set by Statute
50,000 - 59,999	32,000.00	Set by Statute
60,000 - 69,999	40,000.00	Set by Statute
70,000 - 79,999	48,000.00	Set by Statute
80,000 - 89,999	56,000.00	Set by Statute
90,000 and over	64,000.00	Set by Statute

Premises licences sought for community centres and some schools that permit regulated entertainment but which do not permit the supply of alcohol and/or the provision of late night

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

Annex A

**OTHER FEES**

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

<b>Description</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>
Personal Licence Application	37.00	Set by Statute
Supply of copies of information contained in register	10.50	Set by Statute
Application for copy of licence or summary on theft, loss etc. of premises licence or summary	10.50	Set by Statute
Notification of change of name or address (holder of premises licence)	10.50	Set by Statute
Application to vary licence to specify an individual as designated premises supervisor	23.00	Set by Statute
Interim Authority Notice	23.00	Set by Statute
Application to transfer premises licence	23.00	Set by Statute
Application for making a provisional statement	315.00	Set by Statute
Application for copy of certificate or summary on theft, loss etc. of certificate summary	10.50	Set by Statute
Notification of change of name or alteration of club rules	10.50	Set by Statute
Change of relevant registered address of club	10.50	Set by Statute
Temporary Event Notices	21.00	Set by Statute
Application for copy of notice on theft, loss etc. of temporary event notice	10.50	Set by Statute
Application for copy of licence on theft, loss etc. of personal licence	10.50	Set by Statute
Notification of change of name or address (personal licence)	10.50	Set by Statute
Notice of interest in any premises	21.00	Set by Statute
Minor Variation	89.00	Set by Statute
Removal of DPS Condition	23.00	Set by Statute

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

Annex A

**ANNUAL FEES**

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

<b>Description</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>
Rateable value band		
A	70.00	Set by Statute
B	180.00	Set by Statute
C	295.00	Set by Statute
D	320.00	Set by Statute
E	350.00	Set by Statute

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:

<b>Rateable value band</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>
D	640.00	Set by Statute
E	1,050.00	Set by Statute

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:

<b>Number of people in attendance at any one time</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>
5,000 - 9,999	500.00	Set by Statute
10,000 - 14,999	1,000.00	Set by Statute
15,000 - 19,999	2,000.00	Set by Statute
20,000 - 29,999	4,000.00	Set by Statute
30,000 - 39,999	8,000.00	Set by Statute
40,000 - 49,999	12,000.00	Set by Statute
50,000 - 59,999	16,000.00	Set by Statute
60,000 - 69,999	20,000.00	Set by Statute
70,000 - 79,999	24,000.00	Set by Statute
80,000 - 89,999	28,000.00	Set by Statute
90,000 and over	32,000.00	Set by Statute

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

Annex A

**GAMBLING ACT 2005**

Description		Current Fee (Exc VAT)	Proposed Fee (Exc VAT)
<b>Bingo Club</b>	New Application	2,625.00	Set by Statute
	Variation	1,312.50	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	2,625.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	750.00	Set by Statute
	Copy Licence	18.75	Set by Statute
<b>Adult Gaming Centre</b>	New Application	1,500.00	Set by Statute
	Variation	750.00	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	1,500.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	750.00	Set by Statute
	Copy Licence	18.75	Set by Statute
<b>Betting (Other)</b>	New Application	2,250.00	Set by Statute
	Variation	1,125.00	Set by Statute
	Transfer/Reinstatement	900.00	Set by Statute
	Application with Prov Statement	900.00	Set by Statute
	Prov Statement	2,250.00	Set by Statute
	Notification of Change	37.50	Set by Statute
	Annual Fee	450.00	Set by Statute
	Copy Licence	18.75	Set by Statute
<b>* Licensed Premises Gaming Machine Permit</b>			
	New	150.00	Set by Statute
	Annual Fee	50.00	Set by Statute
	Variation	100.00	Set by Statute
	Transfer	25.00	Set by Statute
	Copy Permit	15.00	Set by Statute
	Change Name	25.00	Set by Statute
<b>** Club Gaming/Permit/Club Machine Permit</b>			
	New	200.00	Set by Statute
	Annual Fee	50.00	Set by Statute
	Renewal	200.00	Set by Statute
	Variation	100.00	Set by Statute
	Copy Permit	15.00	Set by Statute
<b>Notification of 2 or less gaming machines</b>		50.00	Set by Statute
<b>Registration of non-commercial lottery</b>			
	Initial Fee	40.00	Set by Statute
	Annual Fee	20.00	Set by Statute
* 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.			

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

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Description	Current Fee (Exc VAT)	Proposed Fee (Exc VAT)	% Increase
<b>Home Boarding of Dogs: Annual Licence</b>			
Initial	137.00	138.00	0.7
Renewal	115.00	116.00	0.9
<b>Dog Breeders: Annual Licence</b>			
Initial	458.00	463.00	1.1
Renewal	207.00	209.00	1.0
<b>Pet Shops: Annual Licence</b>			
Initial	458.00	463.00	1.1
Renewal	207.00	209.00	1.0
<b>Performing Animals: Single Payment</b>			
Registration	93.00	94.00	1.1
<b>Zoo: Annual Licence</b>			
Initial/Renewal	458.00	463.00	1.1
<b>Hairdresser: Single Payment</b>			
Premises	39.50	40.00	1.3
<b>Street Trading Consents</b>			
Week (minimum charge)	127.00	128.00	0.8
1 month	341.00	344.00	0.9
3 months	801.00	809.00	1.0
6 months	1,310.00	1,323.00	1.0
6 months max trading 2 events per week including Fri,Sat,or	741.00	748.00	0.9
6 months max trading 2 events per week Monday to Thursday	493.00	498.00	1.0
Street trading consent variation fee	83.00	84.00	1.2
Ice cream vans 1 month (per van)	170.00	172.00	1.2
Ice cream vans 6 months (per van)	655.00	662.00	1.1
<b>Scrap Metal Dealers: Three Year Licence</b>			
Site Licence New	457.00	462.00	1.1
Site Licence Renewal	397.00	401.00	1.0
Mobile Collector New	244.00	247.00	1.2
Mobile Collector Renewal	224.00	226.00	0.9
Variation of licence	336.00	340.00	1.2
Change of site manager	62.00	63.00	1.6
Copy Licence	11.00	11.00	0.0
Change of name	33.00	33.00	0.0

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

Annex A

<b>OTHER PREMISES LICENSING</b>				
<b>Description</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>	<b>% Increase</b>	
<b>Sex Establishment: Annual Licence</b>				
Premises - Initial	2,517.00	2,542.00	1.0	
Premises - Renewal	1,336.00	1,349.00	1.0	
<b>Dangerous Wild Animal: Annual Licence</b>				
Premises - Initial	447.00	451.00	0.9	
Premises - Renewal	259.00	261.00	0.8	
<b>Riding Establishment: Annual Licence</b>				
Premises - Initial	483.00	487.00	0.8	
Premises - Renewal	251.00	253.00	0.8	
Provisional - Initial	282.00	284.00	0.7	
Provisional - Renewal	144.00	145.00	0.7	
<b>Animal Boarding Establishment: Annual Licence</b>				
1 - 30 animals	Initial	381.00	384.00	0.8
	Renewal	223.00	225.00	0.9
31 - 60 animals	Initial	449.00	453.00	0.9
	Renewal	242.00	244.00	0.8
61 (or more) animals	Initial	547.00	552.00	0.9
	Renewal	296.00	298.00	0.7

**ENVIRONMENT, CULTURE & COMMUNITIES DEPARTMENT  
2016/17 PROPOSED FEES & CHARGES**

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<b>HACKNEY CARRIAGES</b>			
<b>Description</b>	<b>Current Fee (Exc VAT)</b>	<b>Proposed Fee (Exc VAT)</b>	<b>% Increase</b>
<b>Hackney Carriages Vehicle: Annual Fee</b>			
Licensing (annual fee)	265.00	268.00	1.1
<b>Private Hire Vehicle: Annual Fee</b>			
Licensing (annual fee)	265.00	268.00	1.1
Home to School (annual fee)	135.00	136.00	0.7
<b>Operator Licence: Annual Fee</b>			
1 vehicle	172.00	174.00	1.2
2 - 5 vehicles	298.00	301.00	1.0
6 - 10 vehicles	500.00	505.00	1.0
11 - 15 vehicles	692.00	699.00	1.0
16 - 20 vehicles	938.00	947.00	1.0
more than 20 vehicles	1,130.00	1,141.00	1.0
<b>Operator Licence: 3 year Licences</b>			
1 vehicle	412.00	416.00	1.0
2 - 5 vehicles	724.00	731.00	1.0
6 - 10 vehicles	1,200.00	1,212.00	1.0
11 - 15 vehicles	1,663.00	1,680.00	1.0
16 - 20 vehicles	2,251.00	2,273.00	1.0
more than 20 vehicles	2,711.00	2,738.00	1.0
<b>Operator Licence: 5 year Licences</b>			
1 vehicle	New	652.00	0.0
2 - 5 vehicles	New	1,150.00	0.0
6 - 10 vehicles	New	1,900.00	0.0
11 - 15 vehicles	New	2,634.00	0.0
16 - 20 vehicles	New	3,564.00	0.0
more than 20 vehicles	New	4,292.00	0.0
<b>Driver Licences</b>			
Initial (all driver licence types)	138.00	139.00	0.7
Renewal	105.00	106.00	1.0
Renewal (3 years- 33% discount on annual fee)	210.00	212.00	1.0
Home to school renewal only	85.00	86.00	1.2
Home to school 3 years	170.00	172.00	1.2
<b>Other Charges</b>			
Transfer of vehicle to new owner	45.50	46.00	1.1
Conversion of driver licence to another type	73.00	74.00	1.4
Change of vehicle	68.00	69.00	1.5
Transfer of operator licence	45.50	46.00	1.1
Meter Test - Retest after failure	29.50	30.00	1.7
Knowledge Test	29.50	30.00	1.7
First Aid Training for drivers	25.50	26.00	2.0
DBS Check	At cost	At cost	
Administrative charge for DBS check	12.00	12.00	0.0
Replacement documents	22.00	22.00	0.0
Advertising on Hackney Carriages (Initial)	35.50	36.00	1.4
Advertising on Hackney Carriages (Renewal)	25.00	25.00	0.0
Replacement Badge	21.00	21.00	0.0
Replacement plate	25.00	25.00	0.0
Replacement backing plate	20.00	20.00	0.0
Medical exemption from carrying assistance dog	20.00	20.00	0.0
Refund processing fee	25.00	25.00	0.0
Change of vehicle registration	47.00	47.00	0.0

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**TO: LICENSING AND SAFETY COMMITTEE  
8 OCTOBER 2015**

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**LICENSING - CRIMINAL CONVICTIONS POLICY  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 This report brings to the Committee the results of the consultation exercise agreed by the Committee on the 11 June 2015. In addition, it seeks approval of the Committee to adopt this policy when considering either new applications or existing licences for drivers and private hire operators.

**2 RECOMMENDATIONS**

**2.1 That the Committee:**

- a) **notes the results of the consultation,**
- b) **agrees the adoption and implementation of the policy document at Annex A from 9 October 2015.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The new policy reflects present best practice to improve public confidence and takes account of growing public concern regarding the involvement of taxi drivers in a number of high profile sex exploitation cases. It is important for public confidence and the economic viability of the taxi trade that a robust policy on the application of criminal convictions is in place.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Retention of the existing policy may be judged by some as failure to properly recognise the public safety concerns that could be presented by licensed drivers.

**5 SUPPORTING INFORMATION**

- 5.1 Members of the Committee received a report at the meeting on 11 June 2015 which sought approval for public consultation upon a Criminal Convictions Policy for Taxi and Private Hire Vehicle Drivers and Private Hire Operators.
- 5.2 The draft Policy was placed upon the Council Consultation Portal from 9 July 2015 to 6 September 2015. In addition the document was emailed to 562 Bracknell Forest-licensed drivers and private hire operators on 10 July 2015. No responses were received to the consultation.
- 5.3 If adopted it is recommended that the document is implemented at the earliest possible date. This will ensure that, going forward, passenger safety is perceived as a priority for the Council and suppliers of taxi services.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The relevant legal issues are addressed within the main body of the report.

### Borough Treasurer

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

### Equalities Impact Assessment

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

### Strategic Risk Management Issues

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

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 Bracknell Forest Private Hire and Hackney Carriage licence holders.

### Method of Consultation

7.2 Via Bracknell Forest Council Consultation Portal and direct email to drivers.

### Representations Received

7.3 None.

### Background Papers

Taxi and PHV Licensing – Councillors Handbook March 2015

### Contact for further information

Robert Sexton  
Head of Regulatory Services  
Tel: 01344 352580  
Email: [Robert.sexton@bracknell-forest.gov.uk](mailto:Robert.sexton@bracknell-forest.gov.uk)

**BRACKNELL FOREST COUNCIL**  
**Draft Hackney Carriage and Private Hire Licensing**  
**Criminal Convictions Policy**

**1. Introduction**

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an **applicant** or an **existing licence holder** is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver's licence or a private hire vehicle operator's licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
  - That the person does not pose a threat to the public
  - That the public are safeguarded from a dishonest person
  - That children, young persons and vulnerable adults are safeguarded.
- 1.3 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not exclusively:
- Applicants for drivers and operator licences
  - Existing licensed persons whose licences are being reviewed
  - Licensing officers
  - Members of the licensing committee/panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions.
- 1.4 Where licensing officers or the Licensing Panel have delegated powers to grant, revoke or suspend licences, they will utilise these guidelines when making their decision. Whilst officers and the panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.** Clear cogent reasons would be set out in any decision letter where there is a departure from the guidance.

**2. General policy**

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances, or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a) remain free of conviction for an appropriate period; and
  - b) show adequate evidence that he or she is a fit and proper person to hold a licence

The onus is on the applicant to produce such evidence and simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

### 3. Pre-requisites to making an application

3.1 It is the policy of the licensing authority that every application for a licence to drive a hackney carriage and/or private hire vehicle must be accompanied by satisfactory evidence of the following matters and that applications that are incomplete will not be deemed to have been made until such time as they are complete:

- That the applicant has the right to live and work in the country.
- An enhanced criminal record check (DBS) and evidence that they are not on a child and/or vulnerable adult barring list.
- A certificate of their current medical fitness to DVLA Group 2 standard.
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive.
- That the applicant meets the required post-qualification driving experience and demonstrates the required level of competency.
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for.
- That where specified the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide.
- For persons who seek to be authorised to drive a wheelchair accessible vehicle, that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their wheelchair.

3.2 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

### 4. Appeals

4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

### 5. Powers

5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency,

## ANNEX A

violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

5.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

### 6. Consideration of disclosed criminal history

6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of caution/conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of caution/conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

6.2 Existing licence holders are required to notify the licensing authority in writing within 28 days of being arrested, receiving a driving licence endorsement, fixed penalty notice, caution or criminal conviction.

6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing team in confidence for advice.

6.4 Applicants for the grant of a driver licence will be required to obtain an enhanced disclosure from the Disclosure and Barring Service (DBS). Existing licensed drivers are required to obtain an enhanced disclosure every 3 years or as required by the licensing authority.

6.5 Applicants for the grant of an operator licence, where that person is not the holder of a current driver licence issued by the Council, will be required to obtain a basic criminal record disclosure from Disclosure Scotland. Existing licensed operators are required to obtain a basic criminal record disclosure every 3 years or as required by the licensing authority.

- 6.6 The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information, and the DBS's policy on the secure storage, handling, use, retention and disposal of disclosure information. Copies of these documents are available on request. More information about the DBS can be found on their website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.
- 6.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

### **7. Serious offences involving violence**

- 7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life or serious injury. Exceptional circumstances may permit the Council to make an exception to this general policy statement.
- 7.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 7.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm
  - Actual bodily harm which would be classified as "hate crime"
  - Robbery
  - Possession of firearm
  - Riot
  - Assault on a Police officer, or a Council officer acting in the course of their duty
  - Common assault which would be classified as "hate crime"
  - Violent disorder

## ANNEX A

- Resisting arrest, when subsequently charged or convicted.
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

- Criminal damage would be classified as "hate crime"
- Any other hate crime offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

### **8. Possession of a weapon**

8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

### **9. Sex and indecency offences**

9.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

9.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for a serious offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

9.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit).

9.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

## 10. Dishonesty

10.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Licensed drivers are required to deposit such property with the police within 24 hours and inform their operator where applicable. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

10.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception

- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

### **11. Drugs**

11.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

11.3 A licence will not normally be granted where the applicant has a conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

11.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

### **12. Driving offences involving the loss of life**

12.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences

### **13. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

13.1 As licensed drivers are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs. Normally at least 3 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13.2 Applicants should also be aware of the serious risk posed by driving whilst using mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- Are much less aware of what's happening on the road around them
- Fail to see road signs
- Fail to maintain proper lane position and steady speed
- Are more likely to 'tailgate' the vehicle in front
- React more slowly, take longer to brake and longer to stop
- Are more likely to enter unsafe gaps in traffic
- Feel more stressed and frustrated.

13.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

13.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

### **14. Licensing offences**

14.1 Certain offences which relate to licensing matters such as illegal plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since the offence.

14.2 A licence will not normally be granted if an applicant has more than one conviction for such licensing related offences.

### **15. Insurance offences**

15.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however a strict warning should be given as to future behaviour.

15.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

15.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least three years.

### **16. Outstanding charges or summonses**

16.1 If an individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

16.2 If the outstanding charge or summons involves a serious offence or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

### **17. Non-conviction information**

17.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.

17.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

### **18. Cautions**

18.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

### **19. Once a licence has been granted**

19.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect serious consideration to be given to the suspension or revocation of their licence.

19.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

19.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

### **20. Licences issued by other licensing authorities**

20.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

### **21. Summary**

21.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances,

before an application can be considered. However, there may be occasions when an application can be allowed before the stated period free from conviction has elapsed.

- 21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration must remain the protection of the public.

**TO: LICENSING AND SAFETY COMMITTEE  
8 OCTOBER 2015**

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

**1 PURPOSE OF REPORT**

- 1.1 The Bracknell Forest Council's Statement of Licensing Policy ('SLP') under the Licensing Act 2003 must undergo a review and be re-published by 7 January 2016.
- 1.2 The purpose of this report is to bring the revised SLP, following consultation, to the Committee for comment prior to approval by Council on 25 November 2015.

**2 RECOMMENDATION**

- 2.1 **That the Committee, subject to any further comments, approves the revised SLP at Annex A to go forward to Council on 25 November 2015.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 Section 5 of the Licensing Act 2003 ('the Act') requires the licensing authority to prepare and publish a SLP every five years. The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no alternative options as the revision of the SLP is a legal requirement.

**5 SUPPORTING INFORMATION**

- 5.1 Before determining the SLP for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates
- Persons or bodies representative of businesses and residents in its area

The views of all consultees should be given appropriate weight when the SLP is determined.

- 5.2 The consultation was carried out on the Council's public consultation portal from August to October. In addition, a working group was set up with members from this Committee. The comments received have been considered and where appropriate included within the SLP. Should any further responses be received between the publication of this report and the Committee, these shall be circulated at the meeting for consideration.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The legal implications are identified within the report.

### Borough Treasurer

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

### Equalities Impact Assessment

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

### Strategic Risk Management Issues

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

### Head of Drug and Alcohol Services

6.5 The draft SLP appears to contain all the necessary information required.

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 Responsible authorities, licence holders and local residents.

### Method of Consultation

7.2 The consultation was carried out on the Council's public consultation portal from August to October.

### Representations Received

7.3 Two comments have been received; from the Council's Head of Drug and Alcohol Services as outlined in 6.5 above, and from Thames Valley Police to request that section 8.8 of the policy be expanded to include reference to deliveries of alcohol.

### Background Papers

Statement of Licensing Policy (January 2011)

### Contact for further information

Laura Driscoll, Licensing Team Leader

01344 352517

[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)



# **Statement of Licensing Policy**

**January 2016**

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## **1. Introduction, Purpose and Scope**

- 1.1 The Licensing Act 2003 ('the Act') requires Bracknell Forest Borough Council, as the Licensing Authority, to publish a 'Statement of Licensing Policy' ('policy') every five years. 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 Bracknell Forest lies 28 miles west of London, at the heart of the Thames Valley. The borough covers 109 sq. km of central Berkshire and includes the former New Town of Bracknell, together with Sandhurst town and the villages of Crowthorne and Binfield, along with a number of smaller settlements across Warfield and Winkfield. The area has easy access to the motorway network (M3, M4, M40 and M25), Heathrow, and direct train links into London. Bracknell town centre is currently undergoing regeneration to create a centre which provides a vibrant economic, social and cultural heart to the borough.
- 1.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the Council will determine applications made under the Act. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 In determining the policy, the Council has taken into consideration any comments made by consultees, the statutory guidance issued under section 182 of the Act and the experience of administering and enforcing the Act since its introduction.
- 1.5 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting leisure provision and encouraging the regeneration of the town centre as well as controlling any negative impacts such as increase in crime and disorder, noise, nuisance and anti-social behaviour.
- 1.6 It should be understood that this policy cannot anticipate every scenario that may arise and as such there may be circumstances where the policy may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the council will give full reasons for departing from this policy.
- 1.7 The council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
  - (a) Prevention of Crime and Disorder;
  - (b) Public Safety;
  - (c) Prevention of Public Nuisance; and
  - (d) Protection of Children from Harm.
- 1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and other persons where appropriate in order that they have a clear understanding of the legislative requirements. To ensure this policy integrates with other strategies, the Licensing Authority has liaised and consulted with the appropriate groups, such as the Community Safety Partnership, and will continue to develop close working partnerships with such groups.

- 1.9 The Licensing Authority is committed to promoting 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 circuses and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.10 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.

The Licensing Authority may consider the implementation of an additional policy after full consultation with all responsible bodies and examination of the supporting evidence.

- 1.11 This policy does not:

- (a) Undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits; or
- (b) Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the Act allows.

- 1.12 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Health and Safety at Work etc. Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

- 1.13 In addition, it should be noted that the planning and licensing regimes are separate. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.

- 1.14 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.

- 1.15 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

- 1.16 This policy takes effect on 7 January 2016 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation, with appropriate consultation on any material changes.

- 1.17 Comments on the policy may be made in writing to the Licensing Authority, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell, RG12 1JD or by email to [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk). All comments received will be carefully considered and, where appropriate, included in the policy.

## **2. Licensing Principles and Process**

- 2.1 The council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and acknowledging temporary event notices in the borough. The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 2.2 There are four main licensable activities under the Act:
- (a) retail sales of alcohol;
  - (b) the supply of alcohol by or on behalf of a club
  - (c) the provision of regulated entertainment; and
  - (d) the provision of late night refreshment.
- 2.3 The council's powers and duties as the Licensing Authority are delegated in accordance with the table of delegation set out at Annex A, or otherwise in accordance with the council's adopted constitution.
- 2.4 This policy sets out the process the council will adopt in dealing with licence applications and will be used as a basis in coming to consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the council will be that each application is determined on its merits. Every application will be treated fairly and objectively, taking into account the four licensing objectives, the policy and the statutory guidance issued under section 182 of the Act.
- 2.6 Each of the four licensing objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity. 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 Act is not a primary mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.7 When determining applications, the Licensing Authority must be satisfied that the applicant's operating schedule (please see section 4) 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. This policy further outlines the expectations of the Licensing Authority and should assist applicants.
- 2.8 The Licensing Authority recognises that conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises. If no representations are received, there is no provision for a licensing authority to impose conditions on a licence other than the mandatory conditions and those proposed within the application.

### **3. Making an Application**

- 3.1 The relevant application forms and associated documents are obtainable from the council's website or from the Customer Service Centre during normal office hours.
- 3.2 It is strongly recommended that all applicants consult with the Licensing Authority prior to submitting an application. It may be appropriate to submit a draft application for comments.
- 3.3 A plan must be attached to an application for a premises licence or a club premises certificate. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information as required under regulation. The plan should be at a scale of 1:100; however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application.
- 3.4 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 submit a new licence application. 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, the licence will be granted. 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.
- 3.5 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. Applications may be refused where there are significant outstanding issues.

### **4. The Operating Schedule**

- 4.1 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. This is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives. This should follow a thorough risk assessment relating to the specific premises and licensable activities proposed to take place.
- 4.2 Applicants are strongly recommended to discuss their operating schedule with the responsible authorities prior to submitting the application. The Licensing Team can assist in co-ordinating this process.
- 4.3 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. It must include details of the following:
- (a) Full details of the licensable activities to be carried on at and the intended use of the premises;
  - (b) The times during which licensable activities will take place;
  - (c) Any other times when the premises are to be open to the public;
  - (d) Where the licence is only required for a limited period, that period;

- (e) Where the licensable activities include the supply of alcohol, the name and address of the individual proposed to be designated premises supervisor;
- (f) Whether alcohol will be supplied for consumption on or off the premises or both; and
- (g) The steps the applicant proposes to promote the licensing objectives.

4.4 Where measures to promote the licensing objectives are included in the operating schedule, these may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.

4.5 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.

4.6 A pool of model conditions is available on request from the Licensing Team. Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives.

## **5. Licensing Objective 1: Prevention of Crime and Disorder**

5.1 The Licensing Authority is committed to reducing crime and disorder to improve the quality of life for the people of Bracknell Forest. National and local crime statistics demonstrate 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 make an important contribution to lessening that impact. The Licensing Authority and Thames Valley Police through their Community Safety Partnership will regularly monitor and review crime statistics within the borough and their association with alcohol.

5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour.

5.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event; for example

- Prevention of use, sale or supply of illegal drugs on the premises, and procedures and provision for storage of seized items.
- Prevention of drunkenness and alcohol abuse such as drinking games and irresponsible drinks promotions.
- Security features such as provision and storage of CCTV.
- A prescribed capacity limit
- Use of door staff to control entry to the premises
- Procedures for ejection or dispersal of persons from the premises
- Procedures for dealing with harassment, discrimination and inappropriate behaviour.
- Use of polycarbonate/plastic containers and toughened glass and prevention of persons taking drinks from the premises in open containers
- Display of crime prevention notices
- An appropriate ratio of tables and chairs to customers based on capacity

5.4 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.

## **6. Licensing Objective 2: Public Safety**

6.1 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.

6.2 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. 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.

6.3 Applicants may wish to consider inclusion of the following steps within their operating schedule with a view to the safety of persons attending the premises:

- Evacuation procedures including measures for disabled persons
- Maintenance of alarm systems and emergency lighting
- Maintenance of all escape routes and exits
- Safety checks and records in a log book
- Access for emergency vehicles
- First aid equipment and trained first aiders
- Appropriate lighting and ventilation and monitoring of noise levels
- Checks on temporary electrical installations
- Use of special effects such as lasers, pyrotechnics and, smoke machines
- Control of any animals at the premises
- Use of door supervisors or stewards
- Procedures to ensure safety of women and vulnerable persons
- Provision of potable water

6.4 For indoor sports entertainment or where special provision must be made for the safety of the public, applicants may wish to consider inclusion of the following steps within their operating schedule:

- Provision of qualified medical practitioners
- Where a ring is involved, that it be constructed and inspected by a competent person and any material used to 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 to be available and remain in the vicinity at all times.

## 7. Licensing Objective 3: The Prevention of Public Nuisance

- 7.1 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. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 7.2 It is noted that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include planning controls and Public Spaces Protection Orders.
- 7.3 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of licensable activities proposed and hours of operation will be suitable for the location in which the premises are situated (e.g. areas of dense residential accommodation). Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 7.4 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.
- 7.5 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
- Measures to reduce noise and vibration escaping from the premises; including noise from music and voices whether or not amplified
  - Consideration of the licensed hours and restrictions on when licensable activities can take place both indoors and outdoors
  - Monitoring checks and logs of any checks carried out
  - Prevention of noise from deliveries or waste collections, or disposal of glass bottles etc., at unsociable hours
  - Measures to encourage quick and quiet dispersal by customers and staff including provision for access to book taxis, lowering the volume of music during the last 30 minutes before closing time and procedures for the safe removal and dispersal of persons ejected from the premises
  - Measures 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
  - Measures to control nuisance that might be associated with the use of the external areas, particularly late at night, including supervision of the areas and specified times during which food and drink will not be permitted to be consumed in the external areas.
  - Measures to control litter and odour associated with use of the premises.

## 8. Licensing Objective 4: Protection of Children from Harm

- 8.1 This objective includes the protection of children from moral, psychological and physical harm. 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. Applicants will be expected to consider the risk of children being exposed to alcohol, drugs, activities of an adult and/or sexual nature and exposure to incidents of violence and disorder. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 8.2 The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.
- 8.3 Where appropriate, applicants should state in their operating schedule:
- (a) whether or not they will admit children to any or all parts of the licensed premises;
  - (b) where children are to be admitted, the steps that will be taken to protect children from harm, for example supervision requirements, provision of designated areas for children and families, and hours during which children will not be permitted to be on the premises.

The applicant will also be expected to consider provision for lost and found children (in particular at large public events).

- 8.4 Where appropriate, the Licensing Authority will expect the applicant to evidence how they will supervise children who are performing in an event with regulated entertainment event and what consideration will be given to the welfare of children at attractions or performances likely to attract children. Where children are supervised, the Licensing Authority will expect the operating schedule to demonstrate that these supervisors have been appropriately checked by the Disclosure and Barring Service.
- 8.5 Where events are taking place that are provided solely or mainly for children, for example an under-18s disco, the expectation is that no alcohol will be served.
- 8.6 Applicants are required, where appropriate, to set out in their operating schedule the arrangements they have in place to prevent the sale of alcohol and age-restricted items to children. This should include an age-monitoring scheme. The Licensing Authority recommends use of any of the following as an acceptable proof of age:
- (a) Passport
  - (b) Photocard 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.

Consideration should also be given to training (including refresher training) for staff, and records to evidence this training. In addition there should be means of recording challenges and/or refusals relating to potential sales of alcohol to underage persons.

- 8.7 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 ('proxy sales'). 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.

- 8.8 Applicants from retail outlets which use self-scanning devices or which offer delivery of alcohol will be expected to demonstrate how they are going to prevent the purchase or delivery of alcohol by persons under the age of 18.
- 8.9 The Licensing Authority will also expect applicants to set out in their 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/waitress in a specially designated part of the premises and alcohol is sold only with a table meal.
- 8.10 Where appropriate, the Licensing Authority would expect applicants 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.
- 8.11 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.12 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry shall be controlled to protect children from exposure to strong language, sexual content and other inappropriate matters.
- 8.13 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format, and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the council being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives.
- 8.14 The Licensing Authority recognises the Local Safeguarding Children Board as the competent body and responsible authority to advise matters relating to the protection of children from harm.

## **9. Representations and Mediation**

- 9.1 The Council has adopted a Neighbour Notification policy for applications for new licences and variations to existing licences. A copy of the policy is attached to this document as Annex B.
- 9.2 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, objectors and any relevant responsible authorities prior to the hearing. Hearings may be avoided when all parties arrive at an amicable solution to the issues raised through negotiation.
- 9.3 In determining the grant or variation of a licence, the following responsible authorities may make representations:
  - (a) Thames Valley Police
  - (b) Royal Berkshire Fire and Rescue Service
  - (c) Environmental Health (or for Council-operated premises, the Health and Safety Executive)

- (d) Trading Standards
- (e) Environmental Protection
- (f) Public Health
- (g) Local Safeguarding Children Board
- (h) Planning Authority

In addition to this, any other person may make a representation.

The Licensing Authority will consider any relevant representations received. Any of these individuals or groups may 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.

- 9.4 The Licensing Authority itself is able to make representations, but this is likely to be limited to few cases, for example to ensure appropriate and proportionate conditions are included on a licence where the operating schedule is not clear. If the Licensing Authority makes a representation there shall be a separation of responsibilities between the officer exercising that role and those who are administering the application to ensure procedural fairness and eliminate conflicts of interest.
- 9.5 For a representation to be relevant it must:
- (a) relate to the effect of the grant of the application on the promotion of the licensing objectives;
  - (b) not be 'frivolous or vexatious', and
  - (c) in the case of a review, must not be 'repetitious' if the representation is from a person other than a responsible authority, and
  - (d) if it concerns the designated premises supervisor, be made by a chief officer of police and include a statement explaining the reasons for the objection.

Representations can include positive/supportive representations as well as objections.

- 9.6 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.
- 9.7 Where a representation is received, the Licensing Authority will need to consider if it is frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and its impact on 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.

## **10. Determination of Applications**

- 10.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation as at Annex A.
- 10.2 Where no relevant representations are received, the licence will be issued automatically with such conditions that are mandatory and those arising from the operating schedule. The council has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

## **11. Licensing and Safety Committee and Panel Hearings**

11.1 The Licensing Committee will consist of between 10 and 15 members. Licensing Panels usually made up of 3 members of the Committee members will determine any applications where relevant representations have been received or objection notices in respect of standard temporary event notices.

11.2 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.

and will take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a particular person as the designated premises supervisor;
- to reject the application.

11.3 If 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 appropriate for the promotion of the licensing objectives, proportionate to the individual style and characteristics of the event or premises concerned.

11.4 The decision of 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 relevant 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.

## **12. Temporary Event Notices**

12.1 Temporary event notices (TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event. If there are 500 or more persons present at the event, a premises licence will be required.

12.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a TEN, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a TEN 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 15 TENs covering a maximum of 21 days may be given in respect of any particular premises in a single calendar year.

12.3 Organisers of temporary events are encouraged to submit their TEN as soon as is reasonably practicable in order for the Police and Environmental Protection 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.

- 12.4 Although the legal requirement is 10 clear working days (or 5 clear working days for late TENs) not including the date of receipt or the date of the event, 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.
- 12.5 The processing of TENs by the council is controlled by a strict statutory timetable; therefore, the council will not accept a notice unless it is complete in all respects at the time of submission. In order for the TEN to be processed within the appropriate time frame, it is recommended that TENs are submitted via the online facility on the Council's website.
- 12.6 In the event of an objection, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 12.7 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.
- 12.8 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 allow premises to open for specified extended hours.

### **13. Personal Licences**

- 13.1 Personal licences 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.
- 13.2 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. 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.
- 13.3 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.
- 13.4 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. The personal licence holder must also notify the Court that they hold a personal licence.

### **14. Club Premises Certificates**

- 14.1 In order for qualifying clubs to supply alcohol and provide other licensable activities at their premises, a club premises certificate is required. 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 that the club is non-profit making.

- 14.2 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. Where a club intends to admit the general public to an event where licensable activities will take place, then a premises licence or a TEN will be required.

## **15. Appeals**

- 15.1 Anyone aggrieved by a decision of the council has a right of appeal as set out in schedule 5 of the Act. This appeal must be lodged with the appropriate Court within a period of 21 days from the date on which the applicant was notified by the Licensing Authority of the decision. The council will inform the appropriate parties of their right of appeal in accordance with the Act when confirming a decision of the licensing panel.

## **16. Management of Licensed Premises**

- 16.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The council encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.
- 16.2 Within all licensed premises, whether or not alcohol is to be sold, the council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.
- 16.3 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS) who must be a personal licence holder. The DPS will be named in the premises licence, a summary of which must be displayed on the premises.
- 16.4 The council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The licence holder will also be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided. Where the DPS 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.
- 16.5 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However every sale of alcohol must be made or authorised by a person who holds a personal licence on the premises, or by the DPS under authority that has been delegated (or must be made or authorised by the management committee in the case of community premises). The Licensing Authority recommends that if the DPS 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 all staff are made aware of the location of the document. Where the DPS 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.

## **17. Complaints, Enforcement and Inspections**

- 17.1 Complainants are encouraged in the first instance to raise any concerns directly with the licensee or business concerned. Complaints may be sent to the Licensing Team, Bracknell Forest Council, Time Square, Market Street, Bracknell, RG12 1JD or [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk) for investigation.
- 17.2 Where there are any issues identified or need for improvement at a premises, officers and responsible authorities will seek to work with the licence holder to address these concerns and to achieve a resolution through informal means wherever possible.
- 17.3 The council undertakes proactive risk-based inspections of all licensed premises to ensure continued promotion of the licensing objectives and compliance with licence conditions. Premises that consistently fail inspections may be subject to a licence review or other enforcement action. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure promotion of the licensing objectives.
- 17.4 In terms of enforcement, the aim is to target those premises which are causing problems within the community, whilst supporting well managed premises and activities which provide opportunities for the enjoyment of leisure time without having a negative impact.
- 17.5 Protocols for enforcement will be established between responsible authorities and the Licensing Authority in order to ensure efficient and targeted action for specific problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises. This does not prevent action being taken by any individual authority at any time should offences become apparent. In most cases, a graduated form of response is expected to resolving issues of non-compliance although it is recognised that in serious cases a prosecution or a review application will be the most appropriate means of disposal.
- 17.6 In addition to the Council's enforcement policy, the licensing authority will also have regard to the Regulators' Compliance Code and the Enforcement Concordat and any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

## **18. Reviews of Premises Licences**

- 18.1 At any stage following the grant of a premises licence, a responsible authority or other person may ask the council to review the licence because of a problem arising at the premises in connection with one or more of the four licensing objectives. However it is hoped that this can be avoided by dealing with issues in an informal manner wherever possible, and that reviews will be a measure of last resort.
- 18.2 In every case, the application for review must be relevant to the promotion of the licensing objectives. A hearing will be held to determine the application unless all parties agree that a hearing is not necessary.
- 18.3 Where the request originates from any person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association) the licensing authority must consider whether the request for review is vexatious, frivolous or repetitive. A Licensing Authority may refuse an application for a review on any of these grounds and will give reasons to the applicant for such a refusal.

## Annex A Delegation of Functions

Matter to be dealt with	Full Committee	Licensing Panel	Officers
Application for personal licence		If a police objection	If no objection made
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 representation is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Decision to make a representation as a licensing authority			All cases
Power to suspend a licence for non-payment of annual fees and associated actions			All cases
Power to impose existing premises licence or club premises certificate conditions on a TEN where all parties agree a hearing is unnecessary			All cases

## **Annex B Neighbour Notification Policy**

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

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

are notified when there is a licence application made relating 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 full variation of a premises licence
- Application for new club premises certificate
- Application to full variation of a 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.

## Annex C Glossary

<b>Capacity Limit</b>	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.
<b>Child</b>	Any person who is under the age of 18 years.
<b>Club Premises Certificate</b>	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.
<b>Council</b>	As far as this policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.
<b>Cumulative Impact</b>	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.
<b>Designated Premises Supervisor</b>	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.
<b>Late Night Refreshment</b>	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
<b>Licence Types</b>	<ul style="list-style-type: none"> <li>• Premises Licence</li> <li>• Club Premises Certificate</li> <li>• Personal Licence</li> <li>• Provisional Statement</li> <li>• Temporary Event Notice</li> </ul>
<b>Licensable Activities</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol by retail</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club</li> <li>• The provision of regulated entertainment</li> <li>• The provision of late night refreshment</li> </ul>
<b>Licensing Objectives</b>	<ul style="list-style-type: none"> <li>• Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Prevention of Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
<b>Licensing Qualification</b>	Qualification accredited by the Secretary of State and a requirement for a personal licence.
<b>Operating Schedule</b>	This forms part of the completed application form for a premises licence and must promote the licensing objectives. See section 4 for more information.
<b>Personal Licence</b>	This authorises 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.
<b>Premises Licence</b>	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.

<b>Proprietary Clubs</b>	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
<b>Provisional Statement</b>	Where premises are being constructed or extended or substantial structure changes are proposed.
<b>Qualifying Club</b>	<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"> <li>• Political clubs</li> <li>• Royal British Legion</li> <li>• Working men's clubs</li> <li>• Social and sports clubs</li> </ul> <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>
<b>Regulated Entertainment</b>	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 plays, films, indoor sporting events, performance of dance and live and recorded music. For more detailed advice on whether a specific activity constitutes regulated entertainment, please contact the Licensing Team.
<b>Relevant Offences</b>	As set out in Schedule 4 to the Licensing Act 2003.
<b>Relevant Representations</b>	Representations (objections) made by a responsible authority or any other person which are deemed as relevant
<b>Responsible Authorities</b>	<p>This group can make representations and includes bodies such as:</p> <ul style="list-style-type: none"> <li>• The Chief Officer of Police</li> <li>• The Fire Authority</li> <li>• The Local Enforcement Agency for the Health and Safety at Work etc. Act 1974</li> <li>• The Weights and Measures Authority</li> <li>• The Planning Authority</li> <li>• Environmental Health</li> <li>• Public Health</li> <li>• The body responsible for matters relating to the Protection of Children from Harm - at the date of publication, the Local Safeguarding Children Board has delegated responsibility for this function to Thames Valley Police.</li> <li>• The Licensing Authority</li> </ul>
<b>SAG</b>	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
<b>Temporary Event Notice</b>	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.

**TO: LICENSING AND SAFETY COMMITTEE  
8 OCTOBER 2015**

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**REVIEW OF STATEMENT OF GAMBLING PRINCIPLES  
Chief Officer: Environment and Public Protection**

**1 PURPOSE OF REPORT**

- 1.1 The Bracknell Forest Council's Statement of Gambling Principles ('Statement') under the Gambling Act 2005 must undergo a review and be re-published by 31 January 2016.
- 1.2 The purpose of this report is to bring the revised Statement, following consultation, to the Committee for comment prior to approval by Council on 20 January 2016.

**2 RECOMMENDATION**

- 2.1 **That the Committee, subject to any further comments, approves the revised Statement at Annex A to go forward to Council on 20 January 2016.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time. The present Statement was published on 31 January 2013 and therefore must undergo a review and be re-published on or before 31 January 2016.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 There are no alternative options as the revision of the Statement is a legal requirement.

**5 SUPPORTING INFORMATION**

- 5.1 The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act. The views of all consultees should be given appropriate weight when the Statement is determined.
- 5.2 The consultation was carried out on the Council's public consultation portal from August to October. In addition, a working group was set up with members from this Committee. At the time of writing this report, one response has been received to the consultation and this is attached at Annex B. Should any further responses be received between the publication of this report and the Committee, these shall be circulated at the meeting for consideration.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The legal implications are identified within the report.

### Borough Treasurer

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

### Equalities Impact Assessment

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

### Strategic Risk Management Issues

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

## **7 CONSULTATION**

### Principal Groups Consulted

7.1 The Chief Officer of Police, persons who carry on gambling businesses in the area and local residents.

### Method of Consultation

7.2 The consultation was carried out on the Council's public consultation portal from August to October.

### Representations Received

7.3 One response received from Ladbrokes plc.

### Background Papers

None

### Contact for further information

Laura Driscoll, Licensing Team Leader, 01344 352517

[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)



# Statement of Gambling Principles

**JANUARY 2016**

**GAMBLING ACT 2005  
SI 2006 No 637**

**BRACKNELL FOREST BOROUGH COUNCIL  
STATEMENT OF GAMBLING PRINCIPLES**

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# **1 STATEMENT OF GAMBLING PRINCIPLES**

## **1.1 Introduction**

The Gambling Act 2005 (referred to in this document as ‘the Act’) requires the Council to prepare and publish a Statement of Gambling Principles (‘Statement’) that sets out the policies that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

This Statement has been prepared having regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the Statement. A list of those consulted can be found at Appendix A. The full list of comments made and the consideration by the Council of those comments is available on request.

The Statement will come into effect on the 31 January 2016 and will be reviewed as necessary, and at least every 3 years from the date of adoption.

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, the Statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

## **1.2 The Borough of Bracknell Forest**

Bracknell Forest lies 28 miles west of London, at the heart of the Thames Valley. The borough covers 109 sq km of central Berkshire and includes the former New Town of Bracknell, together with Sandhurst town and the villages of Crowthorne and Binfield, along with a number of smaller settlements across Warfield and Winkfield. The area has easy access to the motorway network (M3, M4, M40 and M25), Heathrow, and direct train links into London. A map can be found at Appendix B.

Bracknell town centre is currently undergoing regeneration to create a centre which provides a vibrant economic, social and cultural heart to the borough.

The Borough’s population is 116,567 (mid-year 2013 estimate). The population is relatively young (median age 38.3 years). 13.4% of the population is over 65 years of age, compared to 17.3% nationally, although this is expected to grow.

Bracknell Forest is one of the least deprived areas of the country (ranked 291 out of 326 local authorities in England on the Index of Multiple Deprivation 2010). Property prices and levels of car ownership are significantly higher than the national average. However, these headline figures mask significant pockets of deprivation. For instance, 17 schools in the borough have free school meal eligibility of over 10%. The borough rate is 8.6% compared to 16.3% nationally (Source: School Census January 2014). Eleven per cent of 0-16 year olds in the borough are living in poverty, compared to a national average of 20.1% and a South East average of 14.6%. There are seven wards in the borough that have child poverty rates higher than the regional average with one of these higher than the national rate. (Source: DWP 2011).

Bracknell Forest is within the economically buoyant Thames Valley and the aspiration is to maintain a vibrant local economy throughout the borough, and in particular to protect the local economy as far as possible during the downturn. The number of people claiming Job Seekers’ Allowance rose to a peak of 2.6% in August 2009 due

to the recession, but has since fallen again and has remained steady. The figure was 0.9% in October 2014, and the proportion remains lower than both the national and South East averages (2.1% and 1.2% respectively).

The economic downturn has also had a significant impact on the proportion of young people in education, employment or training. In May 2013, the estimated proportion of young people aged 16-18 in Bracknell Forest who were not in education, employment or training (NEET) was 4.0% (representing around 140 young people). This remains a key priority for the area. An overriding ambition for the economy is to regenerate Bracknell Town Centre as soon as possible to create a centre which provides a vibrant economic, social and cultural heart to the Borough and a real sense of place.

The overall level of crime in Bracknell Forest fell by 5% in 2013/14 (a total reduction of 37% since 2009/10). Anti-social behaviour fell by 6% compared with a rise of 4% in 2010/11. Significant reductions in a number of crime categories have been recorded since 1 April 2007: burglary of houses - 67%, violent crime - 56%, criminal damage - 64%, robbery - 58% and vehicle crime - 63%. Priorities for the Community Safety Partnership for 2014 - 17 include reducing domestic abuse, Burglary and internet related crime.

### **1.3 Licensing Objectives**

This licensing authority is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with any relevant Gambling Commission guidance;
- reasonably consistent with the licensing objectives;
- in accordance with this Statement of Gambling Principles.

There are three licensing objectives which are central to the Act. These are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### **1.4 Licensable Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences.

The Gambling Commission is responsible for remote (online) gambling, operating licences and personal licences.

This licensing authority is responsible for issuing premises licences and provisional statements for the following types of premises:

- Casinos
- Bingo premises
- Betting premises and tracks
- Adult gaming centres
- Family entertainment centres.

Additional functions of this licensing authority are to:

- issue permits for gambling and gaming machines in clubs
- receive notifications from alcohol licensed premises of the use of up to 2 gaming machines and issue licensed premises gaming machine permits where there are more than 2 machines
- issue permits to family entertainment centres for the use of certain lower stake gaming machines
- issue permits for prize gaming
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- register small society lotteries
- provide details of licences issued to the Gambling Commission
- maintain registers of the permits and licences that are issued under the Act.

## **1.5 Responsible Authorities**

Responsible authorities must be notified of all premises licence applications and are entitled to make representations if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- Gambling Commission
- Police
- Local Fire Authority
- Local Planning authority
- Environmental Health
- Child Protection Committee
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated.

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area, and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

This authority designates the Bracknell Area Child Protection Committee for this purpose.

The contact details of all the responsible authorities under the Gambling Act 2005 are available at: <http://www.bracknell-forest.gov.uk/licencegamblingpremises>.

## 1.6 Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Interested parties making representations will be required to relate their objection to one or more of the licensing objectives.

An interested party is someone who:

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

In determining whether someone lives sufficiently close to particular premises so as to be affected the licensing authority will take into account, amongst other things:

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises.

In determining whether a person has a business interest which could be affected, the licensing authority will consider, amongst other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected.

The term "business interests" is given the widest possible interpretation and includes partnerships, charities, faith groups and medical practices.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the licensing authority would not consider this as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The licensing authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision, the licensing authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically concerning the premises which is the subject of the application.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

Where an interested party has made either a valid representation about a licensed premises or a valid application for a licence to be reviewed, the licensing authority may initially arrange a mediation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

### **1.7 Information Exchange**

This licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

### **1.8 Enforcement**

The Council is a signatory to the National Enforcement Concordat and will follow the principles set out in it. It is based around the principles of consistency, transparency and proportionality and proposes that a graduated response is taken where offences or breaches are found.

This licensing authority has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this Statement.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences.

As per the Gambling Commission's Guidance, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The licensing

authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

The licensing authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants will be encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

## **1.9 Local Risk Assessments**

From April 2016, operators with premises licences will have an obligation to produce a local risk assessment which will assist the licensing authority when considering applications. The risk assessment will be similar to an operating schedule under the Licensing Act 2003 and should consider actual and potential risks to the licensing objectives posed by the provision of gambling facilities at a premises, The assessment should detail the policies, procedures and control measures to mitigate those risks and should take into account the licensing authority's Statement of Gambling Principles.

The licensing authority will expect this risk assessment to accompany all applications for premises licences (new and variation) from April 2016, and will also expect the risk assessment to be shared with the licensing authority on request.

Local risk assessments must be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or variation of a licence.

## **2 PREMISES LICENCES**

### **2.1 General Principles**

A licence can only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

In the Act, "premises" is defined as including "any place". A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as shopping malls to obtain separate premises licences, where appropriate safeguards are in place. This licensing authority will take account of the Gambling Commission's guidance in respect of this matter and the mandatory conditions relating to access between premises.

When determining an application for a premises licence or review a premises licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome any concerns, this will be taken into account. This would be expected to be addressed as part of the local risk assessment required to be submitted with all new and variation premises licence applications from April 2016.

In determining an application, the licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

Applications for the granting, transfer or variation of a premises licence will be expected to be accompanied by an assessment that demonstrates how the applicant will promote the licensing objectives in the form of a written operating schedule. The licensing authority can provide advice on the level of detail required, which will be proportional to the scale and nature of the application made.

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

When considering any conditions to be attached to licences, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Conditions (other than default conditions and those required by law) will only be attached where they are needed to meet the requirements of the licensing objectives and are within the control of the licensee. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour
- The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

The licensing authority will not seek to use the Act to resolve matters more readily dealt with under other legislation, and will seek to avoid any duplication with other regulatory systems where possible. For example, the licensing authority will not take into account whether a premises has the appropriate planning or building consents, nor will it take into account fire or health and safety risks.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take such steps as are lawful and necessary to either limit access generally or by introducing measures to prevent under-age gambling. The licensing authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm. Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

## **2.2 Preventing gambling from being a source of crime and disorder**

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling premises from being a source of crime, for example the sale and distribution of controlled drugs, money laundering, prostitution, or unlawful gambling. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary such as provisions of door supervisors. When making decisions in this regard, the licensing authority will give due weight to any comments made by the Police.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. The licensing authority will seek the views of its legal advisers before determining what action to take in circumstances in which disorder may be a factor. As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The licensing authority will not use the Act to deal with general nuisance issues, such as parking problems, which can easily be dealt with using alternative powers.

## **2.3 Ensuring gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

## **2.4 Protecting children and other vulnerable people from gambling**

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

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons”, it is noted that the Gambling Commission does not seek to offer a definition, but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

## **2.5 Licence Conditions**

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where the machines are located is supervised
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder, and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect. Where it is decided that supervision of entrances or machines is appropriate for particular cases, a consideration of whether these supervisors need to be SIA licensed will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

Listed below are examples of possible areas where a licensing authority may wish to attach conditions to a licence if deemed appropriate:

- Leaflets giving assistance to problem gambling being displayed in prominent areas and discreet areas such as toilets
- The operator having regard to best practice guidance issued on the protection of the interests of vulnerable people
- Positioning of GamCare helpline information positioned on the machine
- A proof of age policy which would be agreed with a relevant responsible authority
- Posters promoting details of the GamCare telephone number and website
- The inclusion of designated chill out areas and areas of non-gambling in the premises.

The licensing authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement or in a way that is reasonably consistent with the licensing objectives.

## **2.6 Licensed Family Entertainment Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Plans of the premises should be provided with an application for an FEC permit.

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry

- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

In exercising their functions in respect of family entertainment centre permits, the licensing authority need not, but may have regard to, the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

Except in exceptional circumstances, the licensing authority will not grant FEC permits in premises licensed for the sale of alcohol under the Licensing Act 2003.

## **2.7 Casinos**

There are currently no casinos operating within the Borough.

The Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.8 Bingo Premises**

This licensing authority notes that the Gambling Commission's Guidance states:

"Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas".

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made

available for use these must be separated from areas where children and young people are allowed.

## **2.9 Betting Premises**

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

On machines such as Fixed Odds Betting, the odds should be clearly displayed.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

While the licensing authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives.

## **2.10 Adult Gaming Centres**

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

This licensing authority may consider measures to meet the licensing objectives such as:

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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **2.11 Tracks**

There are currently no tracks operating within the Borough.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the licensing objective "protection of children and vulnerable persons from being harmed or exploited by gambling" and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This licensing authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may cover issues such as:

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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be taken.

*Gaming machines* - Guidance from the Gambling Commission is available as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

*Applications and plans* - The Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale,

but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

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

## **2.12 Travelling Fairs**

It will fall to this licensing authority to decide whether a travelling fair which offers category D machines and/or equal chance prize gaming without a permit meets the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

## **2.13 Provisional Statements**

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

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

- expects to be constructed
- expects to be altered, or
- expects to acquire a right to occupy.

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

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

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

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

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

- which could not have been raised by objectors at the provisional statement stage
- which in the authority's opinion reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **2.14 Licensing Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice or Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the licensing authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months, and
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

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

### **3 PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES**

#### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission. The Gambling Commission's Guidance for Local Authorities also states: "In their three year Licensing Policy Statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...licensing authorities will want to give weight to child protection issues".

The Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application". It should be noted that a licensing authority cannot attach conditions to this type of permit.

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions

(those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **3.2 Alcohol Licensed Premises Notifications and Gaming Machine Permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

If a premises wishes to have more than two machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “such matters as they think relevant.” This licensing authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an adult gaming centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### **3.3 Prize Gaming Permits**

The Gambling Act 2005 states that a licensing authority may “prepare a Statement of Principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate that:

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

In making its decision on an application for this permit, the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Act with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

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

### **3.4 Club Gaming and Club Machines Permits**

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines, equal chance gaming and games of chance as set out in the regulations.

Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines as set out in the regulations.

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

Before granting the permit, the authority will need to satisfy itself that the premises meets the requirements of a members' club and may grant the permit if the majority of members are over 18.

Licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and/or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years, or
- an objection has been lodged by the Commission or the Police.

There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced."

The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of the code of practice about the location and operation of gaming machines.

### **3.5 Temporary Use Notices**

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In

considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **3.6 Occasional Use Notices**

The licensing authority has very little discretion as regards occasional use notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. This licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **4 DECISION-MAKING**

### **4.1 The Licensing Process**

The Council's licensing functions under the Act will be carried out by the Licensing and Safety Committee, supported by a number of sub-committees and by officers acting under the delegated authority of the committee.

Where there are no areas of contention, it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing and Safety Committee or one of its sub-committees, as will any application for the review of a licence.

The table shown at Appendix C sets out the agreed delegation of decisions and functions to Licensing and Safety Committee, Sub-Committee and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or full Committee if considered appropriate in the circumstances of any particular case.

### **4.2 Committee Terms of Reference**

A Licensing and Safety Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

Where a Councillor who is a member of the Licensing and Safety Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

The Licensing and Safety Sub-Committee will refer to the Licensing and Safety Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing and Safety Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing and Safety Committee or a Licensing and Safety Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk) as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

Where a licensing authority rejects an application, the applicant may appeal to the local Magistrates' Court.

The Council's licensing officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing and Safety Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

## **5 FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:

Licensing Team  
Bracknell Forest Borough Council  
Time Square  
Market Street  
Bracknell  
RG12 1JD

Tel: 01344 352000

E-mail: [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk)

Website: [www.bracknell-forest.gov.uk/licencegamblingpremises](http://www.bracknell-forest.gov.uk/licencegamblingpremises)

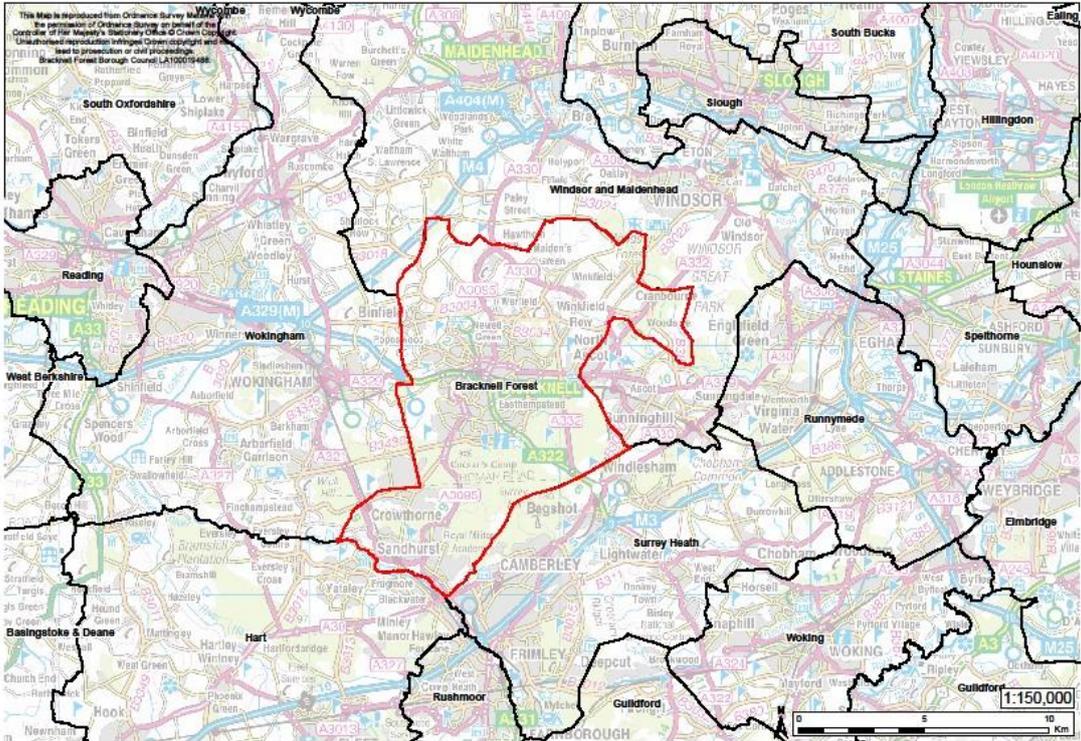
Information is also available from:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### List of Consultees

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bracknell Chamber of Commerce
- Bracknell Regeneration Partnership
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Business in Sport and Leisure
- Committee of Registered Clubs Association
- Community Safety Partnership
- Gamblers Anonymous
- GamCare
- Holders of existing gambling licences
- Involve
- Local community associations
- Members of Bracknell Forest Council
- National Association of Bookmakers
- National Federation of Community Associations
- Parish and Town Councils
- Poppleston Allen Solicitors
- Premises licence / club premises certificate holders
- Pubwatch
- Public website consultation portal
- Thames Valley Police
- The Bingo Association

Map of Bracknell Forest Borough



## APPENDIX C

### Summary of Licensing Authority Delegations Permitted under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Approval of three year Statement of Gambling Principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences (new, variation and transfer) and provisional statements		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits			X
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Revocation of premises licence due to failure to pay annual fee			X
Registration of small society lotteries			X
Cancellation of registration of small society lottery due to failure to pay annual fee			X

X indicates the lowest level to which decisions can be delegated

**Gambling Act Glossary**

<b>Adult Gaming Centres</b>	Adult Gaming Centres must have a premises licence from the licensing authority to make category B, C and D gaming machines available to their customers.
<b>Betting Premises</b>	The Act contains a single class of licence for betting premises, which includes track and non-track.
<b>Bingo</b>	Two types of bingo can be offered: Cash bingo - where the stakes paid made up the cash prizes that are won; or Prize bingo - where various forms of prizes are won and are not directly related to the stakes paid.
<b>Casinos</b>	The Act defines casino games as games of chance which are not equal chance gaming.
<b>Customer Lottery</b>	A lottery run by occupiers of a business for the benefit of the customers who buy tickets sold on the premises (e.g. supermarket holding a hamper raffle).
<b>Exempt Lottery</b>	Incidental non-commercial lotteries Private lotteries Customer lotteries Small Society lotteries
<b>Gambling Act 2005</b>	The Act governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received royal assent on 7 April 2005.
<b>Gambling Commission</b>	The Gambling Commission licenses larger gambling operators and provides advice and guidance to operators, stakeholders and licensing authorities. They also have a role in enforcement and ensuring promotion of the licensing objectives.
<b>Gaming Machines</b>	Category of machine and where they can be situated are contained at the end of this glossary.
<b>Incidental Non-Commercial Lottery</b>	Lottery that is run as an additional amusement at non-commercial events with tickets sold only during the event, such as a raffle at a dance or church fair.
<b>Licensed Family Entertainment Centres</b>	The Act creates two classes of family entertainment centres (FEC). Licensed FECs provide category C and D machines and require a premises licence.

<b>Lotteries</b>	A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
<b>Non-track betting</b>	Betting that takes place other than at a race track.
<b>Occasional Use Notices</b>	Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
<b>Private Lottery</b>	Lottery that requires membership of a society, place of work or single residential unit (e.g. raffle at a student hall of residence).
<b>Small Society Lottery</b>	Non-commercial societies if it is established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.
<b>Temporary Use Notices</b>	These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises which might be suitable for temporary use notices would include hotels, conference centres and sporting venues.
<b>Track betting</b>	Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks both in the form of pool betting (often known as the "totalisator" or "tote") and also general betting, often known as "fixed-odds" betting.
<b>Travelling Fairs</b>	A travelling fair is one that "wholly or principally" provides amusements and they must be on a site that had been used for fairs for no more than 27 days per calendar year. No permit is required for gaming machines, but they must comply with age restrictions.
<b>Unlicensed Family Entertainment Centres</b>	Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.

28<sup>th</sup> August 2015

**Ladbrokes consultation response – Local Council statement on Gambling Act Statement of Principles**

**Introduction**

Ladbrokes is one of the world's largest betting operators, employing around 13,000 across 2,200 shops in the UK. As a responsible business we are committed to providing our customers with a safe, fair and fun leisure experience, whilst helping the small number of individuals who suffer from gambling related harm.

Betting offices are also valuable contributors to the vitality and viability of high streets throughout the UK, employing local people, building relationships with local customers and supporting local good causes in the community:

- They are an established high street use.
- They generate footfall at least comparable to that of retail facilities.
- They generate linked trips so supporting the retail vitality and viability of town centres.
- In physical character terms they generate at least as lively an exterior aspect as retail facilities.
- They are compatible in scale with retail facilities.

We welcome the opportunity to respond to this consultation. As a highly regulated industry, we also devote significant resources to regulatory compliance and fully support both the principle and practice of better working partnerships between local betting operators and local authorities. In our view the current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.

We hope that in responding to this consultation we can better support the implementation of an effective, consistent and clear local licensing regime which is mutually beneficial to operators and local authorities.

**Local Partnerships**

We welcome the focus on partnership working and that is one of the reasons we are a leading signatory to the 'ABB-LGA Framework for local partnerships on betting shops' which was published in January this year. We also have Primary Authority agreements with Liverpool Council and Milton Keynes Council which has resulted in greater clarity and consistency of regulation at a local level

**Local area risk assessments**

From April 2016, under new Gambling Commission LCCP provisions, we are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. As a responsible business, we must take into account relevant matters identified in the licensing authority's statement of licensing policy in their risk assessment, and review our policies where there are significant local changes.

Operators already take certain factors into consideration to ensure compliance with the licensing objectives, both in relation to new applications and existing licensed premises, and therefore it should be, as it is now, a matter for the local operator to decide how this is determined and what should be included. This being the case, only local risks that are evidence based, would be included in the risk assessment.

It is important to note that betting shops are often the victims of crime rather than a source of crime (burglaries, robberies etc). However, as a responsible business we would consider the existing levels of gambling and betting related crimes as well as the measures we can take to mitigate this risk before applying for a local licence.

Instead, each case should be considered on its own merits. Without any clear requirements in the revised licencing policy statements that additional licence conditions should be accompanied by robust evidence, this process could lead to unintended consequences and local shop closures and job losses.

### **Existing responsible practices**

Ladbrokes shops already operate strict age restrictions and we do not promote betting or gambling in our shop windows attractive to young children or vulnerable adults.

We accept the importance of the premises design to mitigate risk, which is one of the reasons we install CCTV cameras in specific places to monitor activity (for example at the entrance and exit of the shop) and it is our policy, unless physically impossible, to locate machines in line of sight of our cashiers. Where this is not possible, we implement alternative measures to ensure that shop team are in a position to monitor the activity in the machines area of the shop.

Security and health and safety risk assessments already detail control measures in this area which are effective in tackling these issues. Similarly, we do not accept the premise that the proximity of young people to betting shops should be regarded as an additional risk. We have strict policies and procedures in place to ensure that only those who are eligible to bet can do so. We have also invested in colleague training for the Challenge 21 policy, whereby any new customer who does not look old enough to bet is asked to provide identification. If official age verification is not provided, the customer will be asked to leave the premises. Ladbrokes also has a Primary Authority Partnership for age-restricted products.

Our policies regarding compliance with the licensing objectives are supported by thorough staff induction training programmes followed by annual refresher training in the higher risk areas such as the prevention of underage gambling (Think 21) and tested through internal audit processes and, in the case of Think 21, test purchasing conducted by a third party service provider and the fact that those results are and other associated information is shared with the Gambling Commission.

### **Additional comments – Display of odds**

In section 2.9 the consultation suggests that the odds on machines should be “clearly displayed”. We already display percentage pay out on all our slot machine games and odds for roulette. These can be easily accessed by customers by clicking on the ‘information’ button on each game. We would hope that this is deemed as “clearly displayed” as it would be almost impossible to display it in a different format, given the number of different games which we offer.

**For further information please contact:** Grainne Hurst, Corporate Affairs Director, Ladbrokes

**LICENSING PANEL  
18 JUNE 2015  
2.00 - 2.50 PM**



**Present:**

Councillor Nick Allen  
Councillor Michael Brossard  
Councillor Clifton Thompson

**In Attendance:**

Simon Bull, Assistant Borough Solicitor  
Charlie Fletcher, Licensing Officer  
Charlie Fielder, Environmental Health Officer  
Mr Sanj Uppal, Applicant

**12. Declarations of Interest**

There were no declarations of interest.

**13. The Procedure for Hearings at Licensing Panels**

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

**14. New Application - Pizza Hut, Unit 2 West View, Market Street, Bracknell, RG12 1JD**

The Panel's decision was that the application for a new premises licence in respect of Pizza Hut, Unit 2, West View, Market Street, Bracknell, RG12 1JG shall be granted subject to additional conditions.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer Mr Charlie Fletcher, who outlined the issues;
- the Applicant, Mr Sanj Uppal
- the responsible authorities Miss Charlie Fielder Environmental Health and Mr Mike King, Thames Valley Police. Mike King did not attend but his written representations were considered. The other representation was heard in person.

These representations were considered together with reference to the appropriate Licensing Objectives: the Prevention of Public Nuisance, Crime and Disorder and the Protection of Children from Harm, the Council's own Licensing Policy and the Secretary of State's Guidance. The principal objectives in this case being public safety in respect of cars pulling over and public nuisance specifically noise nuisance.

At the conclusion of the Panel Hearing, having heard all participants present, the participants confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that two of the responsible authorities Environmental Health and Thames Valley Police had made representations. The Panel noted that Thames Valley Police's representation had been accepted by the applicant at mediation. The Panel noted that Environmental Health had considered the application for a new premises licence for Pizza Hut and had raised concerns about the impact of noise from potential customers on close neighbours and in the general area, arising from the opening hours proposed by the applicant.

The applicant confirmed that the Pizza Hut site was not a restaurant and customers were only able to order food to be either delivered or taken away with them; CCTV operation had been added as a condition variation at mediation so the site would be regulated; Pizza Hut staff would ensure that the site was kept tidy and notices would be erected to encourage people to be respectful and quiet for residents nearby. Based on his prior experience of the trade the applicant expected the majority of his customers would use the delivery option rather than the 'walk-in' option. The applicant was interested in being a good neighbour to residents in the area and was not aware of any issues relating to anti-social behaviour or litter at the site.

The Panel noted that as a result of mediation with the applicant some additional conditions had been agreed.

The Panel decided that granting the premises licence subject to the additional conditions would promote the four licensing objectives, and noted that the proposed licensing conditions addressed some of the concerns with regard to noise nuisance and public nuisance .

The Panel had to consider on the one hand the applicant's right to run his business free of unnecessary restrictions but that had to be balanced against the rights of those who live in the vicinity not to be woken or disturbed by the applicant's patrons when they leave the premises late at night. At the invitation of the applicant the Panel took into account the trading times of nearby competitors and believed that the conditions that they imposed would serve to ensure that the applicant was proactive in his noise management, whilst being granted the right to extend his licensable hours of opening and develop his business. At the same time it sought to provide a degree of protection for local residents to ensure that they are not disturbed by noise nuisance generally or have their sleep disturbed. If noise nuisance were to occur in the future the interested parties could seek a review of the licence and it could be varied.

Therefore the licence was granted subject to the additional conditions 15 to 16 below and the previously agreed conditions 1 to 14 below:

#### Annex 1 – Mandatory Conditions

N/A

#### Annex 2 - Conditions consistent with the Premises Operating Schedule:

1. No alcohol is to be supplied at any time.
2. Fire extinguishers shall be available and maintained regularly.
3. All staff shall be trained in fire safety.

4. Bins located to the front of the store shall be regularly emptied during the day and at the close of business

Annex 3 - Conditions suggested by the responsible authorities – agreed at mediation

5. The licensee shall ensure that the footway and public space in the vicinity of the premises is swept and kept free of litter at regular intervals whilst the premises are open and at the close of business, and litter and sweepings disposed of in an appropriate manner.
6. A management policy shall be implemented to manage the noise and conduct of customers within the vicinity of the premises.
7. Notices shall be displayed at the exits requesting that customers should leave the premises quietly and to respect local neighbours.
8. Doors and windows to the premises shall not be kept open except when in use for access and egress by customers and staff so as to prevent noise nuisance.
9. All extraction and ventilation equipment shall be installed and maintained in accordance with Building Regulation Standards, and shall be operated to ensure that there is no nuisance caused to neighbouring properties.
10. Staff shall monitor and take appropriate action for any anti-social behaviour captured on the CCTV.
11. Delivery drivers visiting the premises will be instructed to enter and leave their vehicles quietly, not to leave the engines running whilst making deliveries and to park considerately at all times.
12. Waste collection and commercial deliveries shall not happen outside the hours of 07:00 to 22:00 Monday to Saturday, with no waste collection or commercial deliveries on a Sunday or Bank Holidays.
13. (a) An incident book shall be used to record details of incidents that occur in and around the venue.  
(b) The incident book shall truly reflect what has occurred and shall be specific in details. If incidents involve members of staff, including any door supervisors, their names shall be entered onto the log book.  
(c) All incidents shall be signed off either by the licence holder or another nominated individual  
(d) All visits by an enforcement authority, all refusals of service, entry and capacity numbers whilst door supervisors are on duty shall be recorded and weekly reviews of the incident book shall be carried out and signed off by the licence holder or other nominated individual.  
(e) The incident book shall be retained for a period of six months and shall be made available on request to any authorised officer of the Police or an authorised officer from Bracknell Forest Council
14. (a) A CCTV system shall be installed in accordance with current or amended Home Office guidelines relating to UK Police Requirements for Digital CCTV Systems.  
(b) The system shall be maintained and operated correctly to the satisfaction of Thames Valley Police, ensuring all licensed areas of the premises (except toilet facilities) are monitored, including all entry and exit points, enabling frontal identification of every person entering and in any light condition.

- (c) All cameras shall continually record whilst the premises are open to the public and the recordings shall be kept and available for a minimum of 31 days with time and date stamping, except for mechanical breakdown beyond the control of the proprietor. Any breakdown or system failure will be notified to Thames Valley Police immediately and remedied as soon as practicable.
- (d) Recordings shall be made available to an authorised officer of Thames Valley Police or Bracknell Forest Council with facilities for viewing with immediate access by a person qualified to operate the system.
- (e) Any request from Thames Valley Police or Bracknell Forest Council for a recording to be made for evidential purposes must be carried out within forty eight hours.
- (f) A sign advising customers that CCTV is in use shall be positioned in a prominent position at all access points.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

- 15) The premises shall be closed to all customers by 01:00 on Fridays and Saturdays and 00:00 at all other times. The premises shall only be open to walk-in customers until the hours of 00.30 on Fridays and Saturdays and 23.30 at all other times.
- 16) There shall be no admittance or re-admittance of walk-in customers after the hours of 00.30 on Fridays and Saturdays and 23.30 at all other times. From the walk-in closing time, any walk-in customer waiting to collect food must wait inside the premises at all times until their food is ready. If they leave the premises for any reason after the walk-in closing time, they shall be refused re-entry. This condition does not allow any discretion for entry or re-entry after the walk-in closing time, so for the avoidance of doubt a person who has made an order for food prior to the walk-in closing time can be admitted and wait in the shop until their food is ready to take away. Anyone trying to enter or re-enter the premises after the walk-in closing times must be refused entry and service.

**LICENSING PANEL  
20 JULY 2015  
2.07 - 3.13 PM**



**Present:**

Councillors Brossard (Chairman), Allen and Thompson

**In Attendance:**

Simon Bull, Legal Adviser to the Panel

Charlie Fletcher, Licensing Officer

Amanda Roden, Democratic Services Officer

**1. Declarations of Interest**

There were no declarations of interest.

**2. The Procedure for Hearings at Licensing Panels**

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

**3. New Application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP**

The Panel's decision was that the new application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP shall be granted, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex O of the agenda papers.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the applicant's representatives Mr Jon Wallsgrove, and Mr Simon Hallam; for Southern Co-operative;
- the interested parties (2) who submitted oral and written representations, and nine other written representations, including one which was submitted as part of a petition with 229 signatures.

together with reference to the Licensing Objectives: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, particularly noise nuisance, and Protection of Children from Harm, the Council's own Licensing Policy and the Secretary of State's guidance.

The Panel noted that none of the responsible authorities had made representations. The Panel were advised that there had been a notice erected at the premises and that the Responsible Bodies, such as the police, had received a notice of the new

application for Co-op, Former Daruchini, Forest Road, Binfield, Berkshire. RG42 4HP. The police had confirmed that they had no objection to the licensing application in question.

At the conclusion of the licensing panel, having heard from participants present, the participants and the applicant confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted the concerns of the public representations, which included:

#### Crime and Disorder

- Whilst acknowledging that the new licence application showed a reduction in the current licence conditions, when compared to the previous application in relation to Daruchini Restaurant serving Indian food, concern was raised in relation to the purchase of alcohol for consumption outside of the premises, in the car park, and in the surrounding community, particularly after 21:00 in the evenings.
- There was reference to a ram raid at the Spar and Post Office and other retail units in the area being broken into on Forest Road. Concern was raised that the late opening hours of the premises would provide further opportunity for anti-social behaviour leading to crime and disorder.
- There were a number of outlets and public houses selling alcohol in the area already and adding to this number was thought to result in more consumption of alcohol and social disruption. Although, at this point the objectors were unable to lead with actual evidence that it was happening currently.

#### Public Safety & Sale of Alcohol

- The Co-op would provide a retail facility including the sale of alcohol until 23:00. The availability of inexpensive alcohol for sale late at night was a concern. It was thought to be a detriment to public safety and could contribute to an increase in crime and disorder in the nearby community. Thought was particularly given to elderly and vulnerable residents in the area.
- There could be an increase in traffic with many vehicles frequenting the site for short periods of time. It was thought that the premises in question could attract more people to the site for the purchase of alcohol therefore increasing the levels of traffic in the area, and particularly causing congestion close to the village roundabout which already experienced congestion at certain times of day. Public buses and HGVs were said to have trouble navigating the corner near to the premises.

#### Prevention of Public Nuisance

- Young people would have an opportunity to purchase inexpensive alcohol late at night and to congregate outside the premises, for instance in the car park. Pubs in Binfield were within walking distance of the premises and had outside areas. There was a concern that people could purchase alcohol from the premises in question and return to the local pubs to consume it.
- Sale of alcohol was suggested to be between 08:00 and 21:00, in line with the opening hours of the other two licensed retailers in the area. Also suggested was the condition that alcohol should not be consumed on the site including the car park area.
- Previous premises licences of this site permitted on and off sales of alcohol until 23:00 Sunday to Thursday and 00:00 Friday to Saturday. Concern was raised about changing the licence conditions to only being consumed off site and the possibility of this encouraging irresponsible drinking and putting

young people at risk by being able to purchase alcohol. The site location was high profile to passing traffic making it easy for anyone to stop.

- The Spar in Binfield closed at the earlier time of 21:00 on weekdays and 20:00 on weekends.

#### Protection of Children from Harm

- The car park at the premises was used by parents dropping their children off at a local primary school at school start and finish times during the day. The restaurant on the site was closed during this time but a convenience store would be open during this time leading to increased traffic and a safety risk for children.

The Panel took into consideration the oral submissions of the applicant's representative which included:

- Southern Co-operative had just under 200 stores operating throughout the south and in neighbouring counties but this store was a separate store with its own policies and procedures regarding the sale of alcohol which would be made by the company individually rather than Southern Co-operative as a whole.
- The store would primarily be a convenience store and the sale of alcohol was an ancillary part of the business. There were clearly defined points for staff to follow.
- A full colour CCTV system would be put into place and external cameras to the front of the shop and the car park.
- Alcohol, such as beers and wines, would be located away from the entrance to the store and there would be no display of alcohol on the fixtures near the doors, with the possibility of opportunistic thieves in mind.
- The store would operate a Challenge 25 policy with badges and notices up around the store and at the till so that people would know they would be challenged and what identification would be acceptable.
- Training would be undertaken by the personal licence holder at the store; they would undertake initial training on the knowledge of policies and law in relation to their role and then would be shadowed to start with.
- Each staff member would have a PIN code which they would use at the till; it was a sophisticated tool. There would be an electronic log of every sale refused. Staff would be required to complete logs regarding Challenge 25 refusals of sale and the description of the people concerned, to allow the DPS to see if particular people were frequenting the store at particular times of the day. If they were, staff rotas could be adjusted to ensure senior staff were present to challenge the attempted under age sales.
- The staff would be subject to performance reviews by the DPS and staff would be appraised, for example, visually to see if they challenged people as appropriate.
- Southern Co-operative would ensure that policies were implemented and checks would be undertaken to ensure that notices were displayed.
- There would be security on the site for the first two to four weeks after opening. A risk assessment had been undertaken and the store could trade without a security guard, so there was no long term plan to use security at the store other than just to start with. However, were there incidents of attempted under age sales or issues related to alcohol purchase the company would respond accordingly.
- Southern Co-operative had a close relationship with the communities in which they were a part and worked with police on, for example, Challenge 25 roadshows. The store would have leaflets for people needing to apply for

identification. Southern Co-operative took part in Facewatch and the Business Crime Reduction Partnership. The same level of communication could be expected from the store in Binfield as of other Southern Co-operative stores in the south.

- The store would aim to employ and provide jobs for approximately 20 local people and their local knowledge would be useful in running the store. Southern Co-operative had care for working with residents and Responsible Authorities. This should cancel out the locals concerns that at other shops local people worked and so recognised the people who may attempt inappropriate alcohol purchases.
- If Co-operative staff allowed people to drink outside the store this would be detrimental to the Co-op. Managers of Co-op stores were aware of this and were proactive in ensuring that people moved on, so as not to deter customers using the store. The Co-op wanted the store to be an attractive place to visit and staff would ensure that the area outside the store, such as the car park, was free from litter.
- All public houses could sell alcohol for use off the premises until 23:00.

The Panel took into consideration the representations made in relation to traffic and parking including the representation that the car park of the Co-op was currently and historically used as a drop off and collection point for the local primary school. However, the concerns did not come anywhere near meeting the threshold that they would undermine the four licensing objectives. It would be for the Co-op with their CCTV and managers to prevent people using the car park for dropping off and picking up children from school. From the representations made, the Panel had confidence that the applicant would recruit staff who would be instructed to ensure that the site, as a licensed premise, within their sphere of control was well managed and people abusing the site would be challenged. If that was not the case then the license could be called in for a review by anybody.

The Panel needed to consider the operation of the convenience store as a shop and the licensable activity of the store when making a decision.

The Panel decided that granting the new premises licence, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex O of the agenda papers, would promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Panel found no evidence to justify refusing the new application or any reason to impose any additional conditions in relation to the hours for the sale of alcohol.

If in the future there were any concerns which would have an adverse effect on the Licensing Objectives, the case could be reviewed by a Licensing Panel. In reaching its decision, the Panel took into consideration that the Co-operative store would trade as a responsible body, had a clear plan and policies in place to deal with any issues, and may choose to close for business earlier than 23:00 if custom was quiet in the lead up to this time in the evenings.

The decision making process was a matter of judgement by the Panel having weighed all the evidence provided by the interested parties and the applicant's representative the evidence came down clearly in favour of granting the licence. The applicant had clearly addressed their minds to the processes and policies required to ensure that the licensing objectives were promoted. It had to be recognised that whilst the objectors significant in number raised objections under the 4 licensing objectives, the evidence in support of the objections had little evidential support and when weighed in the balance carried little weight and cogency. A considerable

amount of the representations by the objectors did not relate at all to the licensing objectives. They related to fear of competition by what they perceived to be corporate giants coming into their community. This was not a matter that the panel could consider as it did not relate to any of the licensing objectives.

The Panel took into consideration that none of the responsible authorities had made representations, particularly the police who had the statutory lead on crime and disorder issues. The panel noted that the applicant had spoken with the police in addition to sending in their paper application and the police were satisfied with the application. If the police had raised issues the outcome may have been different, however, having been given every opportunity to make representations or objections the Panel must give the fact that they chose not to, the weight it deserved.

The Panel wished to make it clear that it did not mean that had the police objected the licence would not have been granted, but it did mean that police objections must be given weight as they were the agency charged with dealing with crime and disorder. The Panel also noted that the other responsible bodies had not raised any objections either. The Panel were aware that there were a large number of objections and that those objections were coordinated. However, despite many people saying the same thing the objections were broadly based on what might happen rather than what would happen and were very repetitive. Repetition in itself, does not add to cogency if the substance was all based on remote possibilities rather than actualities. The one thing that was alleged to actually be happening at the moment was the school parking at and around the site of the licensed premises, and that in the view of the Panel was well within the power of the applicant to resolve. The Panel formed the view based on the representations that were led by the applicant that they would not hesitate to stop their car park being used by people other than their patrons.

At the hearing there was an issue raised about the extent of the car park space that would be within the licensed premises control. The Panel were satisfied that whatever the extent of the car park the applicant would ensure that it was used only for patrons of the licensed premises.

This was a case where the balance lay with granting the licence and if any of the concerns the objectors raised about the 4 licensing objectives actually happened they could seek a review of the licence.

**CHAIRMAN**

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**LICENSING PANEL  
9 SEPTEMBER 2015  
2.06 - 3.05 PM**



**Present:**

Councillors Thompson (Chairman), Ms Gaw and Leake

**In Attendance:**

Donald Adams, Legal Adviser to the Panel  
Charlie Fletcher, Licensing Officer  
Amanda Roden, Democratic Services Officer

**4. Declarations of Interest**

There were no declarations of interest.

**5. The Procedure for Hearings at Licensing Panels**

The Chairman confirmed that all parties understood the procedure to be followed for the hearing.

**6. Application for a Variation of Premises Licence - Shell Filling Station, 102 Yorktown Road, Sandhurst, GU47 9BH**

The Panel's decision was that the Variation of a Premises Licence for Shell Filling Station, 102 Yorktown Road, Sandhurst, GU47 9BH shall be granted, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex E, on pages 39 and 40 of the agenda papers, including a revised condition 5.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant's Representative Mr David Hook;
- the interested party (1), who submitted oral and written representations.

together with reference to the Licensing Objectives: Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, particularly noise nuisance, the Council's own Licensing Policy and the Secretary of State's guidance.

The Panel noted that none of the responsible authorities had made representations.

At the conclusion of the licensing panel, having heard from participants present, the participants and the applicant confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted the concerns of the public representation, which included that the filling station was situated in a mainly residential area bisected by a main road. There were other premises nearby which people could purchase alcohol from including a Co-op, and supermarkets a short drive away. The type of trade this application would attract, in particular between the hours of 06:00 and 08:00, was a concern as well as littering and consumption of alcohol on the site and in nearby areas such as the park. The extended hours for the sale of alcohol from the site could cause further noise disturbances at the site and along the main road late at night and early in the morning. Concern was raised that extending the hours of the sale of alcohol could cause crime, disorder and disturbance in the neighbourhood. In the past, groups of young people had congregated at the site causing raised noise levels and disturbance.

The Applicant's Representative clarified that the sale of alcohol was for consumption off the premises, so not on the premises or in the immediate vicinity of the premises. The forecourt at the premises was covered by Petroleum Regulations and the staff at the premises were required to have visibility over the site at all times. The site was covered by CCTV in colour and the staff needed to be responsible for the forecourt at all times whilst it was trading.

The pre-existing licence on the premises had been granted under the Licensing Act 1964. Under this Act there were prescribed hours for licences for the sale of alcohol and every off licence had the same hours but there was a newer Licensing Act 2003. The site sold fuel and convenience items from 06:00 to 23:00 and was no longer operated by Shell. The Applicant's Representative was aware of concerns raised in the past when the site was operated by Shell.

The difference in times for selling different products on the site was a potential source of difficulty with customers, as customers could purchase fuel and convenience items outside of the times of 08:00 to 23:00 Monday to Saturday and 10:00 to 22:30 on Sunday, which were the current times for the sale of alcohol. Some people who work overnight may wish to purchase alcohol at a different time of day to those working during the day. There were two types of customer; those who purchased fuel and those who purchased convenience items. If the business relied solely on the purchase of fuel it would be unprofitable; therefore it relied as well upon the purchase of convenience items, which kept the trade rolling as convenience items were priced higher than supermarket prices.

The Applicant was being proactive by applying to align the times of sale for both fuel and convenience items, and alcohol, so that customers could buy any of these items at the same time. The Applicant would ensure that the Licensing Objectives were adequately protected, and there had been no history of issues arising from other Motor Fuel Limited sites. The hours of sale applied for, fit with the trade the business was experiencing at present. The type of people purchasing alcohol was not relevant to the Licensing Objectives or the consideration of the application for the variation of the premises licence. This application allowed conditions, which could not be applied before, to be applied.

The Applicant's had the lease for the whole of the site including the store and forecourt area, and had operational control over both aspects of the site.

The Panel took into the consideration the public representation and the statement of the Applicant's Representative. In case of differences in interpretation, the definition of the premises and area the site covered would be clarified in condition 5 of Annex 2: Conditions consistent with the Premises Operating Schedule as follows:

(5) Alcohol shall not be sold in an open container or be consumed in or on any part of the licensed premises; which includes all buildings, the forecourt area and entire curtilage of all of that premises which is known as 102 Yorktown Road, Sandhurst, Berkshire. GU47 9BH.

The area referred to in condition (5) above is the area delineated in red on the attached plan.

The Panel decided that granting the variation of the premises licence, in line with the mandatory conditions and conditions consistent with the Premises Operating Schedule at Annex E, on pages 39 and 40 of the agenda papers, including the revised condition 5, would promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance, and Protection of Children from Harm. The Panel found no evidence to justify refusing the variation of the application or any reason to impose any additional conditions in relation to the hours for the sale of alcohol.

If in the future there were any concerns which would have an adverse effect on the Licensing Objectives, the case could be reviewed by a Licensing Panel. In reaching its decision, the Panel took into consideration that the site was currently being leased to Motor Fuel Limited which would trade as a responsible body.

The Panel took into consideration that none of the responsible authorities had made representations, particularly the police who had the statutory lead on crime and disorder issues.

This was a case where the balance lay with granting the licence and if any of the concerns the objector raised about the 4 licensing objectives actually happened they could seek a review of the licence.

**CHAIRMAN**

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