



# **Statement of Licensing Policy**

**January 13th 2021**

## Contents

1.	Introduction, Purpose and Scope.....	3
2.	Licensing Principles and Process .....	5
3.	Making an Application.....	5
4.	The Operating Schedule.....	7
5.	Licensing Objective 1: Prevention of Crime and Disorder .....	8
6.	Licensing Objective 2: Public Safety .....	9
7.	Licensing Objective 3: The Prevention of Public Nuisance.....	10
8.	Licensing Objective 4: Protection of Children from Harm .....	111
9.	Representations and Mediation .....	144
10.	Cumulative Impact.....	15
11.	Determination of Applications .....	156
12.	Licensing and Safety Committee and Panel Hearings .....	166
13.	Temporary Event Notices .....	167
14.	Personal Licences .....	178
15.	Club Premises Certificates.....	188
16.	Appeals .....	189
17.	Management of Licensed Premises.....	189
18.	Complaints, Enforcement and Inspections.....	20
19.	Reviews of Premises Licences .....	20
20.	Early Morning Restriction Orders (EMROs).....	21
21.	Late Night Levy (LNL).....	21
22.	Covid-19- 2020.....	22
Annex A 223	Delegation of Functions	
Annex B	Neighbour Notification Policy	<u>38</u>
Annex C	Glossary	<u>39</u>

## Explanatory Note

The Council, as Licensing Authority for the purposes of the Licensing Act 2003, is under a statutory duty to publish this Statement of Licensing Policy on a regular basis.

It explains the general approach that the Authority will take in relation to the licensing of premises for alcohol sales, entertainment and late night refreshment. It is not a set of hard and fast rules: rather it is an outline of principles and processes.

The purpose is to assist applicants, licensees and the general public, and to provide a consistent starting point for consideration of licensing matters. As it is a policy, it is not binding on the authority and the authority can depart from it when the circumstances justify such a decision. It must be read alongside the Licensing Act 2003 1, the Regulations made under the Act 2, and the Guidance published by the Secretary of State 3.

The authority and its officers cannot provide legal advice to anyone. It is the licensing authority and in addition, it is one of the regulators under this legislation. If legal advice is required it should be obtained from independent lawyers.

1 Available at <https://www.legislation.gov.uk/ukpga/2003/17/contents>

2 Also available at <https://www.legislation.gov.uk> but these regulations are numerous and more difficult to find. Various textbooks are also available and these may be found in public libraries.

3 Available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003__April_2018_.pdf)

## 1. Introduction, Purpose and Scope

- 1.1 The Licensing Act 2003 ('the Act') requires Bracknell Forest 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 Licensing Authority 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 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.
- 1.5 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.
- 1.6 The Licensing Authority recognises the licensed activities make an important contribution to the economy of the Borough. By regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these often conflicting, positions and all views will be taken into account when making licensing decisions or determining on course of action.
- 1.7 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 Licensing Authority will give full reasons for departing from this policy.
- 1.8 The Licensing Authority 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.

- 1.9 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.
- 1.10 If it is deemed necessary, 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) Prevent any application being made for any matter or activity regulated by the Licensing Act 2003
  - b) alter the fact that each application will be considered on its individual merits; or
  - c) prevent any person or responsible authority from making 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 must be recognised and acknowledged that the planning and licensing regimes are separate. There is no requirement for planning permission to be in place before a licence application can be made (and if appropriate) granted. A licence application cannot be refused due to an absence of 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 the 14th January 2021 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 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. In general, this policy refers to premises licences, but the same principles will be relevant and be applied in relation to club premises certificates and temporary event notices (TENs) subject to modifications required by the legislation.
- 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 licensing functions of the licensing authority are the responsibility of the statutory licensing committee. The licensing committee can then delegate matters to subcommittees of that committee or to officers, subject to the restrictions and limitations contained within the legislation. The scheme of delegation is set out at Annex A.
- 2.4 This policy sets out the process the Licensing Authority will adopt in dealing with licence applications and will be used as a basis in arriving at consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the Licensing Authority 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, this policy and the statutory guidance issued under section 182 of the Act.
- 2.5 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 mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.6 It is acknowledged that increases in disorder in particular may be thought to be a result of licensing legislation only. The Licensing Authority can only have regard to the provision of the Licensing Act 2003 when determining an application. However the Licensing Authority recognises that other mechanisms exist to control disorderly behaviour, e.g planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated area, and Policy enforcement powers. Where these powers lie with the Council, they will be used as appropriate.
- 2.7 The Licensing Authority will make decisions on the merits of each individual matter, guided by, but not bound by this policy. It will always be able to exercise its 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 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.

- 2.9 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.
- 2.10 Following relevant representations, the Licensing Authority recognises that any conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions attached to licences will be proportionate and appropriate to achieve the promotion of the licensing objectives and will be tailored to suit the circumstances and premises.

### **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. 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. It may be appropriate to submit a draft application for comments.
- 3.2 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 Licensing Authority will accept plans of an alternative scale provided this is approved prior to submitting the application.
- 3.3 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.
- 3.4 A similar process applies to applications for variations of existing licences. The operating schedule must address the 4 licensing objectives. Responsible authorities and other persons are likely to address compliance or non-compliance with the conditions of the existing licence in any representations they may make. The determination will only concern the proposed variation: the existing licence will remain unaffected even if the application is refused, because action against the existing licence can only be taken following a review.
- 3.5 For large scale events, it is strongly suggested that the event should be referred to the Safety Advisory Group in advance of submission of an application. It is best practice for local ward members to be involved in the SAG process for large scale events.

### **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, and this is contained in the statutory application form (referred to at paragraph 3.1 above). This is a key document and, if completed comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The Licensing Authority 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 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.
- 4.3 Where particular steps 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. If they are not, they will be reworded to meet those objectives.
- 4.4 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.
- 4.5 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 measure(s) to promote the licensing objectives.
- 4.6 Arrangements must be made to ensure that all staff are properly and adequately trained to fulfil and discharge their particular functions, as well as understanding the overall requirements of the Licensing Act and other relevant legislation. In particular all staff must undertake safeguarding training. Records of all such training must be maintained and refresher training provided and undertaken as required.

## **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 reducing 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

This is not an exhaustive list: rather these are examples of matters that may be included, and applicants must ensure that their approach is tailored to the specific nature of their premises and activities.

- 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 Equality and Human Rights Commission <http://www.equalityhumanrights.com/> or by contacting them on 0808 800 0082.
- 5.5 Applicants (and licensees) should undertake a terrorism threat risk assessment, in consultation with TVP if local and national threat levels determine a necessity, and put in place measures to reduce the risk to their customers and staff. Applicants (and licensees) should have considered the National Counter Terrorism Security Office (NaCTSO) Crowded Places Guidance when carrying out their risk assessments relating to the risk of terrorism. The guidance is comprehensive, easily accessed at <https://www.gov.uk/government/publications/crowded-places-guidance> , and should be considered essential reading for all who manage premises open to the public.
- 5.6 Licensees must maintain a log of refusals to serve customers alcohol due to their intoxication or an inability to prove that they are aged 18 years or over. This log must be in a format (either in writing or by electronic means) which allows entries to be made easily and not amended or tampered with after the event. It must be kept securely and be made available to the officers of the licensing authority and police constables on request

at all times the premises are open for the sale of alcohol. All staff involved in the sale of alcohol must be trained in how to use and maintain the log.

5.7 The log must contain the following (but additional information can be recorded):

- a) Description of person attempting to purchase alcohol
- b) Time that person attempted to purchase alcohol
- c) The reason for refusing a person alcohol
- d) Name of staff member dealing with the refusal

The log must be signed off weekly by the Designated Premises Supervisor or nominated representative.

## 6. Licensing Objective 2: Public Safety

6.1 When visiting licensed premises, members of the public have a right to be confident that proper consideration has been given to, and steps have been taken to protect, 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. It should be noted there is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk assessments and control.

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 safety management plan to Bracknell Forest 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

This is not an exhaustive list: rather these are examples of matters that may be included, and applicants must ensure that their approach is tailored to the specific nature of their premises and activities.

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 The Licensing Authority is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. 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, must 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.

This is not an exhaustive list: rather these are examples of matters that may be included, and applicants must ensure that their approach is tailored to the specific nature of their premises and activities.

## **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 scale 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 Great Britain, Northern Ireland or the European Economic Area
- 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.

8.7 Staff employed to work on licensed premises should undergo training upon induction before they are allowed to work. This shall include, but not be limited to:-

- a) Dealing with refusal of sales
- b) Knowledge of the Four Licensing Objectives
- c) Identifying signs of intoxication
- d) Conflict management
- e) How to identify and safeguard vulnerable persons who attend and leave the premises
- f) Proxy purchasing and identifying attempts by intoxicated persons to purchase alcohol.

This training is to be documented and refreshed every six months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of two years and be made available to an authorised officer of Bracknell Borough Council or Thames Valley Police upon request.

8.8 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 they should ask the customer if they have been approached by children to purchase alcohol, refuse to sell that alcohol if they are uncertain as to the honesty of the customer's answer and if necessary contact the Police.

8.9 Licensees must maintain a log of suspected proxy sales. This log must be in a format (either in writing or by electronic means) which allows entries to be made easily and not amended or tampered with after the event. It must be kept securely and be made available to the officers of the licensing authority and police constables on request at all times the premises are open for the sale of alcohol. All staff involved in the sale of alcohol must be trained in how to use and maintain the log.

8.10 The log must contain the following (but additional information can be recorded):

- a) Description of person attempting to purchase alcohol
- b) Time that person attempted to purchase alcohol
- c) The reason for suspecting a proxy sale and refusing to sell a person alcohol
- d) Name of staff member dealing with the refusal

The log must be signed off weekly by the Designated Premises Supervisor or nominated representative.

8.11 Applicants from retail outlets which use self-scanning devices will be expected to demonstrate how they are going to prevent the purchase of alcohol by persons under the age of 18. Where retail outlets offer delivery of alcohol, applicants will be expected to demonstrate how they are going to prevent the delivery of alcohol to persons under the age of 18.

- 8.12 The Licensing Authority will 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 the age of 18 unless specifically approved by a responsible person (aged 18 or over), unless they are working as a waiter/waitress in a specially designated part of the premises and alcohol is sold only with a table meal, in which case similar measures will need to be demonstrated to ensure that only specified alcohol (beer, cider and wine) is made available to persons aged 16 or 17 when accompanied by an adult (aged 18 or over).
- 8.13 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.
- 8.14 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.15 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry of children will be restricted in accordance with the classification of the film determined by the British Board of Film Classification (BBFC).
- 8.16 The Licensing Authority will abide by the recommendations of the BBFC, but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. In relation to a film that has not been classified by the BBFC, any 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 Licensing Authority being unable to classify the film. Requests will be assessed against the BBFC guidelines and the licensing objectives.
- 8.17 The Licensing Authority recognises the Bracknell Forest Safeguarding Board as the competent body and responsible authority to consult and advise on matters relating to the protection of children from harm.
- 8.18 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
- Limiting the hours that children may be present
  - Excluding children when particular specified activities are taking place
  - Limiting the parts of the premises to which children have access
  - Age limitations
  - Excluding under 18s from the premises when licensable activities are taking place
  - Requiring that an accompanying adult be present
  - Arrangements for restricting children from viewing age-registered films
  - Arrangements to ensure that sufficient adult staff are present to ensure that the children are protected from harm

This is not an exhaustive list: rather these are examples of matters that may be included, and applicants must ensure that their approach is tailored to the specific nature of their premises and activities.

## **9. Representations and Mediation**

9.1 The Licensing Authority (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 will aim to facilitate negotiations between the applicant, objectors and any relevant responsible authorities prior to the hearing and submit any such agreements to the hearing to be determined by members,

9.3 In determining the grant or variation of a licence, the following responsible authorities may make representations:

- a) The Licensing Authority itself
- b) Thames Valley Police
- c) Royal Berkshire Fire and Rescue Service
- d) Environmental Health (or for Council-operated premises, the Health and Safety Executive)
- e) Trading Standards
- f) Environmental Protection
- g) Public Health
- h) Bracknell Forest Safeguarding Board (for adults and children)
- i) Planning Authority
- j) Navigation authority in the case of a vessel
- k) The Home Office (Secretary of State) in respect of applications for alcohol sales or the provision of late-night refreshment

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

9.4 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.

9.5 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.

9.6 The Licensing Authority will consider all relevant representations received within the specified period. Any of these individuals or groups may request a representative to make representations on their behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.

9.7 The Licensing Authority itself is able to make representations. If the Licensing Authority makes a representation there will 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.

9.8 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, and
- e) if it concerns a change of 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.

## **10. Cumulative Impact**

- 10.1 The Licensing Authority recognises that the commercial demand for another premises in an area is not a matter for licensing considerations, but more a matter for the planning process and the market.
- 10.2 The Licensing Authority also recognises that where there are several premises providing licensable activity in the same vicinity, additional premises may have an adverse effect on the community; in particular from nuisance and disorder. Accordingly, the Licensing Authority may refuse an application if it believes that to grant a licence would undermine one or more of the Licensing Objectives, and representations have been received from a responsible authority or another person. In addition, the Licensing Authority has to be satisfied that the criteria set out in the legislation are met. As detailed earlier in this Policy, each application will be considered on its own merits.
- 10.3 If the Licensing Authority considers that a 'Special Policy' is needed to deal with the cumulative impact of licensed premises, it will only do so following consultation as specified in the Licensing Act 2003 and following the proper process.
- 10.4 The Licensing Authority will expect licensees and potential licensees within an area to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

## **11. Determination of Applications**

- 11.1 The Licensing Authority will seek to carry out its responsibilities under the Licensing Act 2003 efficiently and cost-effectively. To do this, functions are delegated from the Licensing and Safety Committee.
- 11.2 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation as at Annex A.
- 11.3 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 Licensing Authority has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

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

- 12.1 The Licensing Committee will consist of between 10 and 15 members. Licensing Panels (sub-committees) 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.
- 12.2 In determining the application the Licensing Authority will consider:
- a) the application and evidence presented by all parties;
  - b) the promotion of the four licensing objectives;
  - c) guidance issued by central Government; and
  - d) this Statement of Licensing Policy.

and will take such of the following steps as it considers appropriate 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 appropriate 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.
- 12.3 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.
- 12.4 The decision of the Panel will be accompanied with clear, detailed and cogent reasons for that decision. The decision and reasons for that decision will be sent to the applicant and those who have made relevant representations. 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.

## **13. Temporary Event Notices**

- 13.1 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 at any one time. 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 any one time, a premises licence will be required.
- 13.2 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 all or part of any particular premises in a single calendar year.
- 13.3 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.

- 13.4 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.
- 13.5 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.
- 13.6 Objections to TENs can only be made by the police or the environmental health department, but those can be based on any of the four licensing objectives. They must be made within three working days of the notice being copied to them.
- 13.7 In the event of an objection in relation to a standard TEN, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place. In relation to a late TEN, any objection by the police or environmental health prevents the use of that notice and there can be no consideration of that matter by the licensing authority.
- 13.8 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 13.9 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to allow premises to open for specified extended hours.

## **14. Personal Licences**

- 14.1 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.
- 14.2 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.
- 14.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. Only the police can object to the grant of a personal licence. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.

- 14.4 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.
- 14.5 Where a personal licence holder is convicted of a relevant offence or is subjected to an immigration penalty and the Court does not take action in relation to that licence, the licensing authority will consider whether it is appropriate to suspend or revoke that licence. The licensee will be invited to make representations about the proposed course of action which will be then considered by the licensing authority. If the licensing authority decide on any course of action apart from revocation, the licensing authority will then contact the police and invite their representations. The decision of the licensing authority will then be reconsidered in the light of the police representations.

## **15. Club Premises Certificates**

- 15.1 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.
- 15.2 The processes of application, variation and review are almost identical to those already detailed in relation to premises licences. However there are some important differences. The responsible authorities do not include the Home Office. In addition, there is no requirement for 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. All alcohol supplies are made by or on behalf of the club or to the order of a member of the club. 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.

## **16. Appeals**

- 16.1 Anyone aggrieved by a decision of the Licensing Authority has a right of appeal to the magistrates' court 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 all parties of their right of appeal in accordance with the Act when confirming a decision of the licensing panel.

## **17. Management of Licensed Premises**

- 17.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The Licensing Authority encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.

- 17.2 Within all licensed premises, whether or not alcohol is to be sold, the Licensing Authority 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.
- 17.3 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.
- 17.4 The Licensing Authority 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.
- 17.5 Although 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, as detailed above the Licensing Authority normally expect the DPS to be present on a regular basis. 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 or any other personal licensee 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 or any other personal licensee has delegated responsibility for the sale of alcohol to a person who does not hold a personal licence, the DPS or personal licensee still has a duty of responsibility for the action of those they have authorised to make those sales.

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

- 18.1 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.
- 18.2 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.
- 18.3 The Licensing Authority 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.
- 18.4 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.

- 18.5 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.
- 18.6 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.

## **19. Reviews of Premises Licences**

- 19.1 At any stage following the grant of a premises licence, a responsible authority or other person may ask the Licensing Authority to review a premises licence or club premises certificate 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.
- 19.2 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 repetitious. 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.
- 19.3 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.

## **20. Early Morning Restriction Orders (EMROs)**

- 20.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing Licensing Authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 06:00 hours. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.
- 20.2 At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of Bracknell Forest Borough. However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between midnight and 06:00 is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the Licensing Authority will consult the Community Safety Partnerships and similar sources of evidence. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

## **21 Late Night Levy (LNL)**

- 21.1 Late night levy powers allow licensing authorities to raise a contribution from late opening alcohol retailers (from midnight to 06:00 hours) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the licensing authority.
- 21.2 At the time of writing this policy the Licensing Authority has no plans to collect a LNL. However the situation will be kept under review and prior to making a decision to implement a LNL, the licensing authority will have discussions with the Police and Crime Commissioner (PCC) and local Police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the licensing authority will consult the PCC, the police, licence holders and others about its proposal.

## **22 COVID-19 – 2020**

- 22.1 Due to the pandemic guidance was issued from government to help the hospitality trade reopen
- 22.2 This guidance relates to the alcohol licensing provisions in the Business and Planning Act 2020 only. It is separate to the guidance on working safely during Covid-19 issued by the Department for Business, Energy and Industrial Strategy and the Department for Digital, Culture, Media and Sport.
- It includes information on:
- the purpose of the temporary off-sales extension
  - the difference between pavement licences and alcohol licence
  - the new summary off-sales review process
  - general advice on conducting off-sales
- 22.3 Applicants and Licencees must be mindful of any current government guidance in relation to Covid19

## Annex A: Delegation of Functions:

### Licensing Act 2003 & Regulations

Licensing Act 2003	Functions	Delegation - Licensing Authority (Council or Cabinet – see notes)	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Section 5	Creation of Statement of Licensing Policy	Council			
Section 5A	Consultation on possible Cumulative Impact Assessment and Subsequent Publication	Council			
Section 6	Creation of Licensing Committee	Council			
Section 8(1)	Maintaining a register				•
Section 8(3)	Providing facilities for inspecting register				•
Section 8(4)	Providing copies of entries in register				•
Section 8(5)	Determining a fee for providing copies of entries in register		•		
Section 10	Delegation of functions by Licensing Committee <sup>1</sup>		•	•	•
Various sections	Making representation as a responsible authority <sup>2</sup>				•
Section 18(2)	Grant of premises licence where no representations				•
Section 18(3)	Determination of application for premises licence following representations			•	
Section 18(6)	Decision as to whether any representation in relation to a premises licence application is relevant				•
Section 18(7)	Decision as to whether any representation in relation to a premises				In consultation with Chair or

<sup>1</sup> S10(1) allows the Licensing Committee to delegate functions to a sub-committee or an officer (subject to certain exceptions contained in subsection 10(4)). This scheme of delegations must be made by the Licensing Committee, not Full Council. A sub-committee can also delegate (and again this must be a decision of the sub-committee) its functions to an officer (again subject to the s10(4) exceptions).

<sup>2</sup> This power is available in a wide range of circumstances, and is exercised under regulation 22 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 SI 2005/42. It is suggested it should be an officer decision, but the Licensing Authority must give careful consideration to:

- i) which officer it will delegate the power to; and
- ii) what the Licensing Authority will expect the officer to say in any representations so made.

	licence application from a person is frivolous, vexatious or repetitious				Deputy of Licensing Committee
Section 18(8)	Notification of decision that a representation in relation to a premises licence application from a person is frivolous, vexatious or repetitious				•
Section 23(1)&(2)	Notification of grant of premises licence and issue of premises licence following representations				•
Section 23(3)	Notification of refusal of application (rejection) of premises licence				•
Section 25(3)	Issue of copy premises licence				•
Section 31(2)	Grant of provisional statement where no representations				•
Section 31(3)	Determination of application for provisional statement following representations			•	
Section 31(3)(c) & (4)	Issue of provisional statement and copies following representations				•
Section 31(5)	Decision as to whether any representation in relation to a provisional statement is relevant				•
Section 31(7)	Decision as to whether any representation in relation to a provisional statement from a person is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 31(7)	Notification of decision that a representation in relation to a provisional statement from a person is frivolous, vexatious or repetitious				•
Section 35(2)	Grant of variation of premises licence where no representations				•
Section 35(3)	Determination of application for variation of premises licence following representations			•	
Section 35(5)	Decision as to whether any representation in relation to a variation of a premises licence is relevant				•
Section 35(6)(c)	Decision as to whether any representation in relation to a variation of a premises licence from				In consultation with Chair or Deputy of

	a person is frivolous, vexatious or repetitious				Licensing Committee
Section 36(5)	Notification of decision that a representation in relation to a variation of a premises licence from a person is frivolous, vexatious or repetitious				•
Section 36(1)	Notification of grant of variation of a premises licence and issue of premises licence following representations				•
Section 36(4)	Notification of refusal of application (rejection) for variation of a premises licence				•
Section 39(2)	Grant of variation of premises licence to specify new DPS where no representations				•
Section 39(3)	Determination of application for variation of premises licence to specify new DPS following representations			•	
Section 39(4)	Notification of grant or refusal (rejection) of application for variation of a premises licence to specify new DPS				•
Section 41B(3)	Determination of application for minor variation of premises licence (whether or not representations)				•
Section 41C(1)	Notification of grant of minor variation of premises licence				•
Section 41C(4)	Notification of refusal of application (rejection) for minor variation of premises licence				•
Section 44(2)	Grant of transfer of premises licence where no representations				•
Section 44(5)	Determination of application for transfer of premises licence following representations			•	
Section 44(6)	Determination to exempt applicant for transfer from obtaining existing licensees consent				•
Section 44(7)	Notification of refusal to exempt applicant for transfer from obtaining existing licensees consent				•
Section 45	Notification of grant or refusal (rejection) of				•

	application for transfer of a premises licence				
Section 47(7A)	Sending copy of interim authority notice sent by electronic facility to the police				•
Section 48(3)	Determination of interim authority notice following representations			•	
Section 48(4)	Notification of cancellation of interim authority notice				•
Section 48(5)	Sending copy of notification of cancellation of interim authority notice to police				•
Section 49(1)	Issue of certified copy of premises licence and summary to giver of interim authority notice				•
Section 51(4)(a)	Rejection of application for review of premises licence				•
Section 51(4)(b)	Rejection of application for review of premises licence from a person because it is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 51(6)	Notification of decision to reject an application for review of premises licence from a person because it is frivolous, vexatious or repetitious				•
Section 52(2) & (3)	Determination of application for review of premises licence			•	
Section 52(7)	Decision as to whether any representation in relation to a review of a premises licence is relevant				•
Section 52(8)(c)	Decision as to whether any representation in relation to a review of a premises licence from a person is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 52(9)	Notification of decision to reject any representation in respect of a review of premises licence from a person because it is frivolous, vexatious or repetitious				•
Section 52(10)	Notification of determination of a review of a premises licence				•
Section 53(2)	Application for review of				•

	a premises licence by a licensing authority				
Section 53A(2)	Determination of application for summary review of premises licence			•	
Section 53B(5)	Notification of imposition of interim steps				•
Section 53B(6)	Consideration of representations relating to interim steps			•	
Section 53B(7)	Notification of summary review hearing				•
Section 53C(2)	Determination of review of premises licence following summary review			•	
Section 53C(7)	Decision as to whether any representation in relation to a review of a premises licence following a summary review is relevant				•
Section 53C(8)(c)	Decision as to whether any representation in relation to a review of a premises licence following a summary review from a person is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 53C(9)	Notification of decision to reject any representation in respect of a review of premises licence following a summary review from a person because it is frivolous, vexatious or repetitious				•
Section 53C(10)	Notification of determination of review of a premises licence following a summary review				•
Section 55A(1) & (3)	Suspension of premises licence for failure to pay annual fee				•
Section 55A(5)	Issue of receipt for payment and lifting of suspension of premises licence following payment of annual fee				•
Section 56(1)	Amendments to premises licence and issue of revised summary				•
Section 56(2)	Requiring production of premises licence				•
Section 63(3)	Notice to club that it is no longer a qualifying				•

	club				
Section 72(2)	Grant of club premises certificate where no representations				•
Section 72(7)	Decision as to whether any representation in relation to a club premises certificate application is relevant				•
Section 72(8)	Decision as to whether any representation in relation to a club premises certificate application from a person is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 72(9)	Notification of decision that a representation in relation to a club premises certificate application from a person is frivolous, vexatious or repetitious				•
Section 72(3)	Determination of application for club premises certificate following representations			•	
Section 77(1)&(2)	Notification of grant of club premises certificate and issue of club premises certificate following representations				•
Section 77(3)	Notification of refusal of application (rejection) of club premises certificate				•
Section 79(3)	Issue of copy club premises certificate				•
Section 82 (4)	Amendment of club premises certificate				•
Section 83 (5)	Amendment of club premises certificate following notification of change of premises				•
Section 85(2)	Grant of variation of club premises certificate where no representations				•
Section 85(3)	Determination of application for variation of club premises certificate following representations			•	
Section 85(5)	Decision as to whether any representation in relation to a variation of a club premises certificate is relevant				•
Section 85(6)(c)	Decision as to whether any representation in relation to a variation of a club premises				In consultation with Chair or Deputy of

	certificate from a person is frivolous, vexatious or repetitious				Licensing Committee
Section 86(5)	Notification of decision that a representation in relation to a variation of a club premises certificate from a person is frivolous, vexatious or repetitious				•
Section 86(1)	Notification of grant of variation of a club premises certificate and issue of club premises certificate following representations				•
Section 86(4)	Notification of refusal of application (rejection) for variation of a club premises certificate				•
Section 86B(3)	Determination of application for minor variation of club premises certificate (whether or not representations)				•
Section 86C(1)	Notification of grant of minor variation of club premises certificate				•
Section 86C(4)	Notification of refusal of application (rejection) for minor variation of club premises certificate				•
Section 87(4)(a)	Rejection of application for review of club premises certificate				•
Section 87(4)(b)	Rejection of application for review of club premises certificate from a person because it is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 87(6)	Notification of decision to reject an application for review of premises licence club premises certificate from a person because it is frivolous, vexatious or repetitious				•
Section 88(2) & (3)	Determination of application for review of club premises certificate			•	
Section 88(7)	Decision as to whether any representation in relation to a review of a club premises certificate is relevant				•
Section 88(8)(c)	Decision as to whether any representation in relation to a review of a club premises certificate				In consultation with Chair or Deputy of

	from a person is frivolous, vexatious or repetitious				Licensing Committee
Section 88(9)	Notification of decision to reject any representation in respect of a review of club premises certificate from a person because it is frivolous, vexatious or repetitious				•
Section 88(10)	Notification of determination of a review of a club premises certificate				•
Section 89(2)	Application for review of club premises certificate by a licensing authority				•
Section 90(1)	Giving notice that club is no longer a qualifying club				•
Section 92A(1) & (3)	Suspension of club premises certificate for failure to pay annual fee				•
Section 92A(5)	Issue of receipt for payment and lifting of suspension of club premises certificate following payment of annual fee				•
Section 93(1)	Amendments to club premises certificate and issue of revised summary				•
Section 93(2)	Requiring production of club premises certificate				•
Section 100A(4)	Sending copy of temporary event notice sent by electronic facility to the police and environmental health				•
Section 102	Acknowledgement of temporary event notice				•
Section 104A	Issue of Counter notice				•
Section 105(2) & 106A(2)	Consideration of objection to temporary event notice and imposition of conditions (if possible under s106A)			•	
Section 105(3)(a)	Notice of decision following consideration of objection to temporary event notice where no counter notice issued				•
Section 105(3)(b)	Issue of counter notice following consideration of objection to temporary event notice				•
Section 106A(3)(b)	Issue of notice detailing conditions following consideration of				•

	objection to temporary event notice				
Section 107(1)	Issue of counter notice where temporary event notice limits exceeded				•
Section 107(11)	Issue of copy counter notice where temporary event notice limits exceeded to relevant persons				•
Section 110(4)	Issue of copy temporary event notice				•
Section 120(2) & (6)	Grant of personal licence where no representations				•
Section 120(3)	Refusal of application for personal licence where grant criteria not met				•
Section 120(4)	Giving notice to the police where applicant for personal licence has unspent relevant previous convictions				•
Section 120(7)	Determination of application for personal licence following police objections			•	
Section 121(2)	Giving notice to the police where applicant for renewal of personal licence has unspent relevant convictions since last grant or renewal				•
Section 121(5)	Grant of renewal of personal licence where no representations				•
Section 121(6)	Determination of application for renewal of personal licence following police objections			•	
Section 122(1) & (2)	Notification of grant or refusal (rejection) of personal licence				•
Section 124(2)	Giving notice to the police where applicant for personal licence (or renewal) has obtained a relevant conviction during the application process				•
Section 124(4)	Consideration of revocation of personal licence following notice from the police where applicant personal licensee has obtained a relevant conviction during the application			•	

	process				
Section 124(5)	Notification of decision to revoke or not following police notice where conviction during application process for personal licence				•
Section 125(1)	Issue personal licence				•
Section 126(3)	Issue of duplicate personal licence				•
Section 132A(4) & (5)	Giving notice to personal licensee that licensing authority is considering whether to suspend or revoke the personal licence				•
Section 134A(8)	Decision to suspend or revoke personal licence			•	
Section 134A(10)	Giving notice to the police of decision not to revoke a personal licence and inviting representations as to whether the licence should be suspended or revoked				•
Section 134A(12)	Decision to suspend or revoke personal licence following police representations				
Section 134A(13)	Notification of decision in relation to action against a personal licence				•
Section 134(2)	Endorsing personal licence following certain events				•
Section 134(4)	Requiring production of personal licence				•
Section 167(5)	Determination of review of premises licence following closure order			•	
Section 167(9)	Decision as to whether any representation in relation to a review of a premises licence following closure order is relevant or, if made by a person from a person is frivolous, vexatious or repetitious				In consultation with Chair or Deputy of Licensing Committee
Section 167(11)	Notification of decision to reject any representation in respect of a review of premises licence following closure order because it is not relevant, or if made by a person because it is frivolous, vexatious or repetitious				•

Section 167(12)	Notification of determination of a review of a premises licence following closure order				•
Section 172A(1)	Making, varying or revoking an Early Morning Alcohol Restriction Order EM(A)RO <sup>3</sup>	Executive			
Section 172B(1)(a)	Advertising a proposal to introduce an Early Morning Alcohol Restriction Order (EM(A)RO) <sup>4</sup>				•

---

<sup>3</sup> Making an Early Morning Alcohol Restriction Order (EM(A)RO) is a Council function, and if any part of the procedure e.g. advertising the proposal under s172B(1)(a) it is to be undertaken by a body other than Full Council, it will need to be delegated under the Council scheme of delegations made under s101 Local Government Act 1972.

<sup>4</sup> This is a delegation by Full Council, not under ss7 & 10 Licensing Act 2003 – see footnote 2 above

<b>Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005</b>	<b>Functions</b>	<b>Delegation - Licensing Authority</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Regs 26B & 26C	Advertising various applications on Council Website Policy				•
Reg 27(1)	Copying various electronic applications to responsible authorities				•
Reg 28(1)	Copying various electronic applications to police				•
Reg 36A	Notification of summary review of premises licence				•
Reg 37	Notification of review of premises licence following closure order				•
Reg 38	Advertising review of premises licence or club premises certificate				•
Reg 40	Provision of application etc forms				•

<b>Licensing Act 2003 (Personal Licences) Regulations 2005</b>	<b>Functions</b>	<b>Delegation - Licensing Authority</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 10	Provision of application etc forms				•

Licensing Act 2003 (Hearings) Regulations 2005	Functions	Delegation - Licensing Authority	Delegation - Full Licensing Committee	Delegation - Licensing Sub Committee	Delegation - Officer
Reg 4	Arranging hearings				•
Reg 6	Giving notice of hearings				•
Reg 7	Provision of information accompanying notice of hearing				•
Reg 6	Power to dispense with a hearing				•
Reg 11(1)	Power to extend time limits for hearings				In consultation with Chair or Deputy of Licensing Committee
Reg 11(2)	Notification of extension of period				•
Reg 12	Power to adjourn a hearing <sup>5</sup>			•	In consultation with Chair or Deputy of Licensing Committee
Reg 12(2)	Notification of adjournment				•

---

<sup>5</sup> It will depend on the situation whether this can be considered before the hearing, in which case the delegation should be to an officer in consultation with Chair or Deputy of Licensing Committee. Once the hearing has commenced, it will need to be a Licensing Committee decision (in which case it directly exercises the power of the Licensing Authority under s7(1) and no delegation is required) or a sub-committee (dependant on which body is hearing the matter) in which case delegation is required.

Reg 14	Power to exclude the public from a hearing <sup>6</sup>		•	•	
Reg 20	Power to adjourn or continue a hearing in the absence of a party <sup>7</sup>		•	•	
Reg 20(4)	Notification of adjournment of hearing in the absence of a party				•
Reg 21	Determination of proceedings for hearings		•		
Reg 22	Explanation of proceedings for hearings and determination of request for another person to appeal <sup>8</sup>		•	•	
Reg 24	Allowing parties an equal period of time at a hearing <sup>9</sup>		•	•	
Reg 25	Requiring a party to leave a hearing <sup>10</sup>		•	•	
Reg 28	Notification of determination of hearing when not specified elsewhere				•
Reg 29	Details of rights of appeal to accompany notification of determination of hearing				•
Reg 30	Keeping record of hearings				•
Reg 32	Curing irregularities <sup>11</sup>		•	•	

<b>The Licensing Act (Early Morning Alcohol Restriction Orders) Regulations 2012</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Cabinet – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 4	Advertising proposed Early Morning Alcohol Restriction Order (EM(A)RO)				•
Reg 14	Publication of EM(A)RO				•

<sup>6</sup> This will depend on whether the hearing is before the Licensing Committee (in which case it directly exercises the power of the Licensing Authority under s7(1) and no delegation is required) or a sub-committee.

<sup>7</sup> See footnote 7 above.

<sup>8</sup> See footnote 7 above.

<sup>9</sup> See footnote 7 above.

<sup>10</sup> See footnote 7 above.

<sup>11</sup> See footnote 7 above.

<b>Police Reform and Social Responsibility Act 2011</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Cabinet – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Section 125(2) & 132	Decision to impose a Late Night Levy (LNL) <sup>12</sup> , and determination of levy year, late night supply period etc	Council			
Section 130(5) & (6)	Publication of statements of deductions and net levy				•
Section 131(2)	Payment of specified proportion of levy to police				•
Section 132	Determination of levy year, late night supply period etc	Council			
Section 133	Amendment of levy year, late night supply period etc	Council			
Section 133(2)	Determining exemption or reduction categories	Council			

<b>The Late Night Levy (Application and Administration) Regulations 2012</b>	<b>Functions</b>	<b>Delegation - Licensing Authority (Council or Cabinet – see notes)</b>	<b>Delegation - Full Licensing Committee</b>	<b>Delegation - Licensing Sub Committee</b>	<b>Delegation - Officer</b>
Reg 8(1)	Payment of specified proportion of levy to police				•
Reg 8(2) & (3)	Using the LNL proceeds <sup>13</sup>	• Council in England and Wales			•
Reg 9	Consultation before introduction or variation	Council in England and Wales			

<sup>12</sup> The decision to introduce a Late Night Levy (LNL) is not a licensing function under the Licensing Act 2003 and therefore cannot be exercised by the Licensing Committee. In the absence of any alterations to either the English or Welsh regulations, the power to determine a Late Night Levy (LNL) will lie with the Council.

<sup>13</sup> Whilst on a day to day basis, this will be an officer decision, the overall policy will need to be set by the Council or delegated by the Council to a Council committee, sub-committee or officer.

## **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 premises covered by club premises certificate, or
- the proposed site for a licensed premises or premises covered by club premises certificate

are notified when there is an application made relating to that premises or site. Neighbour notification will provide immediate neighbours with a further opportunity (beyond the statutory notices) to consider the application and respond if appropriate.

This process applies to any of the following:

- Application for new premises licence
- Application for a full variation of a premises licence
- Application for new club premises certificate
- Application for a full variation of a club premises certificate
- Application for a review of a premises licence
- Application for a review of a club premises certificate

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 where part of the frontage is immediately in front of premises (on the opposite side of a road)

## 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>Large scale event</b>	large-scale action or event taking place over a very wide area or involves large numbers of people or things
<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 – Bracknell Forest Safeguarding Board</li> <li>• The Licensing Authority itself</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.