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**Members of the Committee:**

Councillor Mrs S Saddington

Councillor I Walker

Councillor Mrs Y Woodhead

## **AGENDA**

**MEETING:      Licensing Hearing**

**DATE:            Thursday, 24 September 2020 at 10.00 am**

**VENUE:          Broadcast from Castle House, Great North Road,  
Newark NG24 1BY**

**You are hereby requested to attend the above Meeting  
for the purpose of transacting the business on the Agenda as overleaf.**

**Attendance at this meeting and public access will be by remote means due to the Covid-19 Pandemic.  
Further details to enable remote access will be forwarded to all parties prior to  
commencement of the meeting**

**If you have any queries please contact Helen Brandham on [helen.brandham@newark-sherwooddc.gov.uk](mailto:helen.brandham@newark-sherwooddc.gov.uk).**

REMOTE MEETING DETAILS

This meeting will be held in a remote manner in accordance with the Local Authorities and Police & Crime Panels (Coronavirus)(Flexibility of Local Authority and Police & Crime Panel Meetings)(England & Wales) Regulations 2020.

The meeting will be live streamed on the Council's social media platforms to enable access for the Press and Public.

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## LICENSING SUB-COMMITTEE

24 SEPTEMBER 2020

### APPLICATION FOR A PREMISES LICENCE

#### **1.0 Purpose of Report**

1.1 For Members to consider an application to vary the premise licence for the Swan & Salmon, 34 Castle Gate, Newark, NG24 1BG.

#### **2.0 Introduction**

2.1 The application for a variation to the premises licence has been submitted by T J Inns and in summary the application seeks to licence the outside bar as part of the premise licence as it is not included in the current licence.

2.2 Set out below are the proposals contained within the application:

<b>Activity</b>	<b>Proposed timings</b>
Live Music (outdoors)	19:00 to 00:00 Sunday to Friday 16:00 to 00:00 Saturday
Recorded Music (outdoors)	11:00 to 23:00 Monday to Thursday 11:00 to 00:00 Friday 09:00 to 00:00 Saturday 09:00 to 22:30 Sunday
Supply of alcohol (both on premises and off premises)	11:00 to 23:00 Monday to Thursday 11:00 to 24:00 Friday to Saturday 12:00 to 22:30 Sunday

2.3 A full copy of the application can be found at **Appendix 1**.

2.4 On receipt of the Notice of Hearing the applicant has now amended the application as set out in the below table:

<b>Activity</b>	<b>Proposed timings</b>
Live Music (outdoors)	19:00 to 22:00 Sunday to Friday 16:00 to 22:00 Saturday
Recorded Music (outdoors)	11:00 to 22:00 Monday to Thursday 11:00 to 22:00 Friday 09:00 to 22:00 Saturday 09:00 to 22:00 Sunday
Supply of alcohol (both on premises and off premises)	11:00 to 23:00 Monday to Thursday 11:00 to 24:00 Friday to Saturday 12:00 to 22:30 Sunday

#### **3.0 The Application Premises**

3.1 The premises subject to this application is Swan and Salmon, 34 Castle Gate, Newark, Notts., NG24 1BG

3.2 A plan and photographs showing the site in context of its surroundings is shown as **Appendix 2** to this report.

#### 4.0 Licensing History

4.1 The Swan and Salmon, 34 Castle Gate, Newark, NG24 1BG has been known under various names: Kelly’s Tavern; The Moorings; and Water’s Edge. A new premise licence was applied for on 1 July 2010 and was granted as applied for on 30 July 2010.

4.2 A copy of the current licence for 34 Castle Gate, Newark can be found at **Appendix 3** to this report.

#### 5.0 Premise with Licensable Activities in the Surrounding Area

5.1 There are a few premises within close proximity to the application site, the closest licensed premises being located at:

- Atrium, 69 Castle Gate, Newark, NG24 1BE
- Flying Circus, 53 Castle Gate, Newark, NG24 1BE
- Prince Rupert, 46 Stodman Street, NG24 1AW

5.2 This table shows the licensable activities for the above premise:

Premise name	Licensing Hours
Atrium, 69 Castle Gate, Newark, NG24 1BE	<p>A <u>Standard Times</u></p> <ol style="list-style-type: none"> <li>1. Regulated Entertainment               <ol style="list-style-type: none"> <li>a. All categories permitted by this licence except live music Sunday to Wednesday 08:00 to 01:00 the following day Thursday to Saturday 08:00 to 03:00 the following day</li> <li>b. The provision of Live Music Monday to Sunday – 08:00 to 00:00</li> </ol> </li> <li>2. Late night refreshment Sunday to Wednesday 23:00 to 01:00 the following day Thursday to Saturday 23:00 to 03:00 the following day</li> <li>3. The supply of alcohol Sunday to Wednesday – 08:00 to 01:00 Thursday to Saturday – 08:00 to 03:00 the following day</li> </ol> <p>B <u>Non Standard Times</u></p> <ol style="list-style-type: none"> <li>1. Regulated Entertainment – (all categories permitted by this licence except live music) Where 24th December falls on a Sunday to Wednesday – 08:00 to 03:00 the following day Where 26th December falls on a Sunday to Wednesday – 08:00 to 03:00 the following day All Sundays preceding a Bank Holiday – 08:00 to 03:00 the following day If applicable, an additional hour to the standard and non-standard times on the day when British summertime commences. <u>Regulated Entertainment – all categories permitted by this licence</u> From the standard start timing on 31st December to the standard start timing on 1st January.</li> </ol>

	<p>2. <u>Late night refreshment</u>  Where 24th December falls on a Sunday to Wednesday – 23:00 to 03:00 the following day  Where 26th December falls on a Sunday to Wednesday – 23:00 to 03:00 the following day  All Sundays preceding a Bank Holiday – 23:00 to 03:00 the following day  If applicable, an additional hour to the standard and non-standard times on the day when British summertime commences.  From the standard start timing on 31st December to the standard start timing on 1st January.</p> <p>3. <u>The supply of alcohol</u>  Where 24th December falls on a Sunday to Wednesday – 08:00 to 03:00 the following day  Where 26th December falls on a Sunday to Wednesday – 08:00 to 03:00 the following day  All Sundays preceding a Bank Holiday – 08:00 to 03:00 the following day  If applicable, an additional hour to the standard and non-standard times on the day when British summertime commences.  From the standard start timing on 31st December to the standard start timing on 1st January.</p> <p><u>Opening hours</u></p> <p>A <u>Standard Times</u>  Sunday to Wednesday – 08:00 to 01:30 the following day  Thursday to Saturday – 08:00 to 03:30 the following day</p> <p>B <u>Non Standard Times</u>  An additional 30 minutes after the non-standard finish timings for the licensable activities.  On 24th and 26th December and Sundays preceding Bank Holidays – 08:00 to 03:30 the following day</p>
Flying Circus, 53 Castle Gate, Newark, NG24 1BE	<p>A Standard Times</p> <p>1. Regulated Entertainment (Live Music, Recorded Music, Anything Similar to aforementioned, provision of facilities for making music, films)</p> <p>a. All categories permitted by this licence except the provision of Live Music  Sunday to Thursday –10:00 to 00:00  Friday &amp; Saturday – 10:00 to 01:00 the following day</p> <p>b. The provision of Live Music  Monday to Sunday – 10:00 to 00:00</p> <p>2. The Supply of alcohol by retail  Sunday to Thursday –10:00 to 00:00  Friday &amp; Saturday – 10:00 to 01:00 the following day</p> <p>B Non Standard Times</p> <p>1. Regulated Entertainment – all categories permitted by this licence except the provision of Live Music  Bank Holiday Mondays – 10:00 to 01:00 the following day  24<sup>th</sup>, 26<sup>th</sup> and 31<sup>st</sup> December 10:00 to 01:00 the following day</p> <p>2. The supply of alcohol by retail  Bank Holiday Mondays – 10:00 to 01:00 the following day  24<sup>th</sup>, 26<sup>th</sup> and 31<sup>st</sup> December 10:00 to 01:00 the following day</p>

	<p><u>Opening hours</u></p> <p>A Standard Times  Sunday to Thursday –10:00 to 00:30  Friday &amp; Saturday – 10:00 to 01:30 the following day</p> <p>B Non Standard Times  Bank Holiday Mondays – 10:00 to 01:30 the following day  24<sup>th</sup>, 26<sup>th</sup> and 31<sup>st</sup> December 10:00 to 01:30 the following day</p>
<p>Prince Rupert, 46 Stodman Street, NG24 1AW</p>	<p>A Standard Times</p> <ol style="list-style-type: none"> <li>1. Regulated Entertainment (films, indoor sporting events, live music, recorded music, anything similar to the aforementioned) <ol style="list-style-type: none"> <li>a. all categories permitted by this Licence except the provision of Live Music  Sunday to Thursday – 10:00 to 00:00  Friday &amp; Saturday – 10:00 to 01:00 the following day  31<sup>st</sup> December – 10.00 to 01.00 the following day</li> <li>b. The provision of Live Music  Monday to Sunday – 10:00 to 00:00</li> </ol> </li> <li>2. The supply by retail of alcohol  Sunday to Thursday – 10:00 to 00:00  Friday &amp; Saturday – 10:00 to 01:00 the following day</li> </ol> <p>B Non Standard Times</p> <ol style="list-style-type: none"> <li>1. Regulated Entertainment – all categories permitted by this licence except the provision of Live Music  Sundays prior to Bank Holiday Monday and Bank Holiday Mondays – 10:00 to 01:00 the following morning  24<sup>th</sup> December and 26<sup>th</sup> December falling on Sunday to Monday – 10:00 to 01:00 the following morning  31<sup>st</sup> December – 10:00 to 00:00 on 1<sup>st</sup> January</li> <li>3. The supply by retail of alcohol  Sundays prior to Bank Holiday Monday and Bank Holiday Mondays – 10:00 to 01:00 the following morning  24<sup>th</sup> December and 26<sup>th</sup> December falling on Sunday to Monday – 10:00 to 01:00 the following morning  31<sup>st</sup> December – 10:00 to 01:00 on the following day</li> </ol> <p><u>Opening hours</u></p> <p>A Standard Times  Sunday to Thursday – 08:00 to 00:30 the following day  Friday &amp; Saturday – 08.00 to 01:30 the following day</p> <p>B Non Standard Times  Sundays prior to Bank Holiday Monday and Bank Holiday Mondays – 08:00 to 01:30 the following morning  24<sup>th</sup> December and 26<sup>th</sup> December falling on Sunday to Monday – 08:00 to 01:30 the following morning  31<sup>st</sup> December – 08.00 to 01:30 the following day</p>

**6.0 Reason for Hearing**

6.1 Representations have been received from:

- Objector 1
- Objector 2
- Millgate Conservation Society

A copy of their representations are attached as **Appendix 4**.

- 6.2 A map showing the location of the premise and the locality of some of the representors can be found in **Appendix 5**.
- 6.3 The representations received raised concerns over disorder and nuisance that patrons using this premise will cause. The objectors do not believe that the proposed application supports the following licensing objectives:
- The prevention of crime and disorder
  - Public Safety
  - Prevention of Public nuisance
  - Protection of children from harm
- 6.4 Further information was requested by the local authority and can be found in **Appendix 6**.
- 6.5 No agreement has been reached between the applicant and the objectors.
- 6.6 Agreement on certain conditions has been reached with Nottinghamshire Police for the conditions to be included in the licence. These are shown in Paragraph 7.2 below.
- 6.7 No representations have been received from the remaining Responsible Authorities.

## **7.0 Conditions**

- 7.1 There are no proposed changes to the mandatory conditions in Annex 1.
- 7.2 The applicant and Nottinghamshire Police have agreed to the following condition being added at Annex 2:

### **Applicant and Police Agreed Conditions**

A minimum of one suitably trained SIA registered door supervisor shall be on duty from 19:00hrs within the outside bar area when the outside bar is being used for the supply of alcohol. This condition may be disapplied and reinstated by written agreement with the Police at least 2 working days prior to the date and time of the disapplication/reinstatement and such written agreement retained at the premises. This condition will also include Bank Holiday Sunday, New Year's Eve and Halloween.

- 7.3 The applicant has proposed the following conditions as part of the operating schedule:

Signage shall be displayed advising customers to be respectful to residents and to leave the area in a quiet and orderly manner.

7.4 All other conditions at Annex 2 will remain.

## 8.0 **Applicable Policies and Guidance**

8.1 Newark & Sherwood Statement of Licensing Policy 2019 - 23

### Policy 1

The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.

REASON: To ensure the promotion of the licensing objectives.

### Policy 2

When preparing or considering applications, applicants, responsible authorities, interested parties and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the necessity for, and proportionality of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- (i) the nature of the area within which the premises are situated.
- (ii) the precise nature, type and frequency of the proposed activities.
- (iii) any measures proposed by the applicant in the Operating Schedule.
- (iv) the nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) means of access to and exit from the premises.
- (vi) the provision and availability of adequate seating and the restriction of standing areas.
- (vii) transport provision in the area and the likely means of public or private transport.
- (viii) parking provision in the area.
- (ix) the potential cumulative impact
- (x) other means and resources available to mitigate any impact.
- (xi) such other matters as may be relevant to the application.

REASON: To ensure that all relevant matters are taken into consideration during the application process.

8.2 Chapters 6, 7 and 8 of the Statement of Licensing Policy are considered particularly relevant to this application. This is attached as **Appendix 7**

8.3 When considering this application to vary an existing premise licence the panel may wish to consider Chapters 2, 8, 9 and 10 of the Revised Statutory Guidance issued under section 182 of the Licensing Act 2003 - April 2018. This is attached as **Appendix 8**.



## **9.0 RECOMMENDATION**

**That Members are asked to consider the variation application and the representations made for Swan & Salmon, 34 Castle Gate, Newark, NG24 1BG and take the steps as it considers appropriate for the promotion of the licensing objectives.**

**The steps available on determination of a variation application are:**

- **To modify the conditions of the licence**
- **To reject the whole or part of the application**

### List of Appendices

Appendix 1 – Application Form

Appendix 2 – Plan of Site and Photographs

Appendix 3 – Copy of current licence

Appendix 4 – Representations Received

Appendix 5 – Map showing Location of Premises

Appendix 6 – Further Information Received

Appendix 7 – NSDC Statement of Licensing Policy

Appendix 8 – Statutory Guidance

For further information please contact Nicola Kellas – Senior Licensing Officer on extension 5894.

Matt Finch

Director – Communities & Environment

## APPENDIX 1

### Application to vary a premises licence under the Licensing Act 2003

#### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We TJ Inns  
*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

<b>Premises licence number</b> 001568
--

#### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Swan and Salmon 34 Castle gate Newark NG24 1BG			
Post town	NEWARK	Postcode	NG24 1BG

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£

#### Part 2 – Applicant details

Daytime contact telephone number			
E-mail address (optional)			
Current postal address if different from premises address			
Post town		Postcode	

**Part 3 - Variation**

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?  Yes  No

If not, from what date do you want the variation to take effect? 

DD	MM	YYYY
01	07	2020

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

**Please describe briefly the nature of the proposed variation** (Please see guidance note 2)

To incorporate the outside bar into the premises licence for The Swan and Salmon, presently run on a TENS allowance

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

- | <b>Provision of regulated entertainment (Please see guidance note 3)</b>                                    | <b>Please tick all that apply</b>   |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A)  | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)  | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)   | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)  | <input type="checkbox"/>            |
| e) live music (if ticking yes, fill in box E)   | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F)   | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G)  | <input type="checkbox"/>            |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/>            |

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 8)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)
Tue			
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					



E

Live music Standard days and timings (please read guidance note 8)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5) Not a regular gig but may have live bands on bank holidays or functions Music will cease outside at 2200		
Mon	1900	0000			
Tue	1900	0000	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 6)		
Wed	1900	0000			
Thur	1900	0000	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri	1900	0000			
Sat	1600	0000			
Sun	1900	0000			

F

Recorded music Standard days and timings (please read guidance note 8)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon	1100	2300			
Tue	1100	2300			
Wed	1100	2300			
			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 6)		
Thur	1100	2300	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri	1100	0000			
Sat	0900	0000			
Sun	0900	2230			

G

<b>Performances of dance</b> Standard days and timings (please read guidance note 8)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b><u>Please give further details here</u></b> (please read guidance note 5)		
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)		
Sat					
Sun					

H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 5)		
Wed					
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 6)		
Fri					
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)		
Sun					

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			<b><u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b><u>Please give further details here</u></b> (please read guidance note 5)		
Tue					
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 6)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 7)		
Sat					
Sun					

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 9)	On the premises	<input type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input checked="" type="checkbox"/>			
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 6)					
Mon	1100	2300						
Tue	1100	2300						
Wed	1100	2300						
Thur	1100	2300				<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 7)		
Fri	1100	0000						
Sat	1100	0000						
Sun	1200	2230						

K

<p><b>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children</b> (please read guidance note 10).</p> <p>N/A</p>
---



L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 8)			<u>State any seasonal variations</u> (please read guidance note 6)
Day	Start	Finish	
Mon	1100	2320	
Tue	1100	2320	
Wed	1100	2320	
Thur	1100	2320	
Fri	1100	0020	
Sat	0900	0020	
Sun	0900	2250	
			<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 7)

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

.

In the process of being transferred



Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

In the process of being transferred

**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

Bar will we be staffed at all times when open or stocked and table service given if required

**b) The prevention of crime and disorder**

staff will be trained and in contact with main bar by way of walkie talkie  
Doorman to be employed at appropriate times

**c) Public safety**

Staff training and due diligence to be followed at all times Staff to be trained and monitored

**d) The prevention of public nuisance**

Staff to be trained and monitored on challenge 25, on key nights Doorman employed to eliminate any risk  
Signage to encourage our guests to leave in a civil manner  
No outside music after 11 and to be of a reasonable level at all times, monitored by noise level equipment

**e) The protection of children from harm**

Challenge 25  
Staff training and notify DPS of any matters of concern

Checklist:

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	. . . . .
Date	15/06/2020
Capacity	MD

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

<b>Contact name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 15)			
<b>Post town</b>		<b>Post code</b>	
<b>Telephone number (if any)</b>			

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

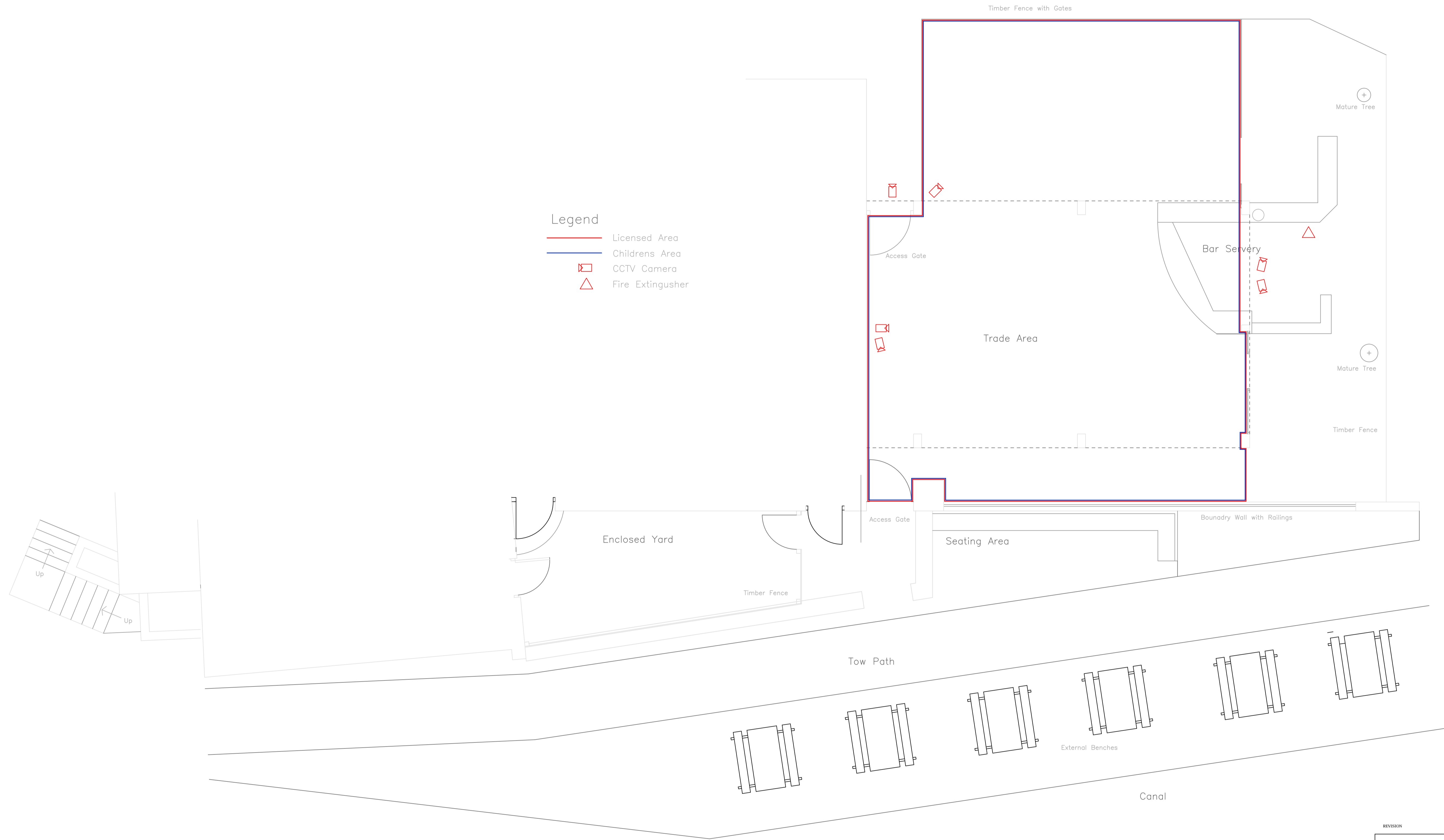
## Notes for Guidance

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
  - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
  - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
  - Live music: no licence permission is required for:
    - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
    - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
  - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
  - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
    - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
    - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
    - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
    - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
  6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  8. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
  9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
  10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
  11. Please list here steps you will take to promote all four licensing objectives together.

12. The application form must be signed.
13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.



Legend

- Licensed Area
- Childrens Area
- ▭ CCTV Camera
- △ Fire Extinguisher

REVISION		
TITLE		
External Drinking Area		
PROJECT		
Waters Edge		
AT		
34 Castle Gate, Newark NG24 1BG		
FOR		
Tony Hall & Jim Jameson		
SCALE(S)	DATE	DRAWN
1:50	May 20	
PRODUCT NO	DRAWING NO	REVISION
25348	10	

**WHITEHEAD** *Let's talk Commercial Interiors*

Unit 2, Bankside works, Darnall Road, Sheffield, S9 5AH  
 T: 0114 2490050 F: 0114 2494946  
 E: stevemcbride@letstalkinteriors.co.uk  
 letstalkinteriors.co.uk

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 All dimensions to be verified on site prior to commencing any work - DO NOT SCALE FROM DRAWING



Swan and Salmon

Swan





Swan and Salmon

KL19 VDD

NOW  
ESTATE AGENTS  
OPEN

**Castle House, Great North Road, Newark, NG24 1BY  
Premises Licence**

**Premises licence number** 001568

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> Swan and Salmon Swan and Salmon Yard 34 Castle Gate			
<b>Post town</b>	Newark on Trent	<b>Post code</b>	NG24 1BG
<b>Telephone number</b>	01636 302110		

**Where the licence is time limited the dates**  
Not applicable

**Licensable activities authorised by the licence**

1. Regulated Entertainment
  - b) Films
  - e) Live music
  - f) Recorded music
  - j) Provision of facilities for dancing
  - k) Provision of facilities for entertainment of a similar description to that falling within i or j
2. Late night refreshment
3. Supply of alcohol

**The times the licence authorises the carrying out of licensable activities**

1. Regulated Entertainment
  - Films – Monday to Sunday 07.00 to 02.00 the following day
  - Live music – Monday to Sunday 07.00 to 02.00 the following day
  - Recorded music – Monday to Sunday 07.00 to 02.00 the following day
  - Provision of facilities for dancing – Monday to Sunday 07.00 to 02.00 the following day
  - Provision of facilities for entertainment of a similar description to that falling within i or j – Monday to Sunday 07.00 to 02.00 the following day
2. Late night refreshment – Monday to Sunday 23.00 to 02.00 the following day
3. Supply of alcohol - Monday to Sunday 09.00 to 01.30

**The opening hours of the premises**  
Monday to Sunday 07.00 to 02.00 the following day

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**  
Both on and off the premise

## Part 2

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

T J Inns Ltd  
Swan and Salmon  
34 Castle Gate  
Newark  
NG24 1BG

**Registered number of holder, for example company number, charity number (where applicable)**

Company Number: 12303807

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol**

Anthony David Hall

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol**

Personal licence number: PA0324  
Issuing Authority: Rushcliffe Borough Council

### Annex 1 - Mandatory conditions

#### Designated Premises Supervisor

No alcohol may be supplied under this Licence:

- (a) at any time when there is no Designated Premises Supervisor in respect of these Premises; or
- (b) at any time when the Designated Premises Supervisor does not hold a personal licence or his/her personal licence is suspended.

#### Authorisation By Personal Licence Holders

Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

#### Irresponsible Promotions

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

### **Potable Water**

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

### **Age Verification**

(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

### **Small Measures**

The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

### **Sales Of Alcohol Below The Permitted Price**

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

- (i) the holder of the premises licence,

- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorizes the supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

(3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

### **Exhibition of Films**

Admission of children (i.e. persons under the age of 18 years) to any exhibition of film must be restricted in accordance with any certificate and/or recommendation relating to that film made by the British Board of Film Classification

### **Door Supervision**

Any person exercising a security activity (as defined by paragraph 2(1)(a) of schedule 2 of the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority. Any such person shall be employed at the premises at the discretion of the Licence Holder/Designated Premises Supervisor and shall display their name badge at all times when on duty.

## **Annex 2 - Conditions consistent with the Operating Schedule**

1. A CCTV system with recording equipment shall be maintained at the premises. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/supply and consumption of alcohol take place.

Equipment shall be maintained in good working order and:

- Be of evidential quality and reproduce coloured images in all lighting conditions, particularly facial recognition
  - Indicate the time and date
  - Be retained for a period of 31 days
  - Sufficient staff will be trained to use the system
  - The original images will be made available for inspection immediately upon request to officers of Responsible Authorities
  - Copies of recordings shall be provided in a format that can be viewed on readily available equipment without the need for specialist software
2. A minimum of two suitably trained Security Industry Authority registered door supervisors will be on duty on Friday and Saturday evenings from 22.00 until the premises close.
  3. A legible record containing names, addresses and Security Industry Authority badge numbers of door supervisors shall be maintained and kept for a period of six months and be available for inspection by the police and the licensing authority.
  4. A 'Challenge 25' scheme or similar shall operate at the premises. Any person who appears to be under 25 years of age shall not be allowed to purchase alcohol unless they produce an acceptable form of identification (passport, driving licence or PASS accredited card). Additional acceptable forms of identification may be notified to the Licence Holder from time to time.
  5. All staff employed at the premises will received training, which will include the prevention of underage sales. Training records will be maintained and retained for a period of six months and be available for inspection by the police and the licensing authority.
  6. All external doors and windows shall be kept closed except for access and egress or in an emergency.
  7. Noise limiters should be fitted to all amplifiers used at the premise.
  8. There will be no entry to the premises after midnight.

## **Annex 3 - Conditions attached after a hearing by the licensing authority**

None

## **Annex 4 – Plans**

Attached: Dated June 2010 Drawing number P04

RECEIVED BY  
10 AUG 2020  
ADMIN SERVICES

07 August 2020

The Licencing and Enforcement Section  
N&SDC  
Castle House  
Newark  
NG24 1BY

**Swan & Salmon**

I am writing to object to the application by TJ Inns to incorporate the outside bar for live and recorded music at various times up to 23.00 on some evenings.

The sound is likely to cause a continuous disturbance to the residents off Millgate and those living at Thorpe's Warehouse.

In addition:

Customers are not noted for their good behavior after leaving venues in the early hours of the morning. They are known for loud noise, arguing and urinating in public.

The venue will draw customers from a wide area, increasing the potential for nuisance and noise along the river bank and up into the town centre.

Any disturbance is likely to require a police presence, which will put further stress on the police and ambulance services.

The possibility of additional traffic delivering and collecting customers on an already busy road will have serious public safety implications.

If this application, along with the Corn Exchange application are approved the implications are obvious.

Yours faithfully



Dear Nicola Kellas

I am writing to object to the plans to grant a license for music (live and recorded) and alcohol to be served outside the Swan and Salmon riverside pub in Newark.

I live on Tannery Wharf and my house fronts onto the river/canal and I can see this premises from my windows. I have lived here for four years and when there is live or recorded music played loudly on the river (e.g. The Newark Festival or when there have been events at the premises in question when it was formerly the Waterside and also the cafe next to it) that the sound not only carries but it is amplified by the water so that it sounds as if it outside our house. Loudly and with distortion.

This means I will not be able to sleep until it stops and midnight is far too late. Anything after 10pm is unacceptable to me and I'm sure other law abiding residents.

The longer the alcohol is consumed also means more crime and disorder and anti-social behaviour with litter and threats of public nuisance, noise and frankly threats to our public safety especially to anyone with children who may be at home in the area. This would include my neighbour who fosters vulnerable teens.

Please record this objection.

Thank you

Dear Nicola

Millgate Conservation Society **strongly object** to this application to vary the current licence by extending to areas outside the built fabric of the pub. We believe approval would be contrary to the Licensing Objectives, specifically in relation to public nuisance.

The premises span the riverside walk, in a residential setting, bordered by flats, B&B, HMO and Top Lock Rows older persons' accommodation on one side of the river and Lock House and casual boat moorings on the opposite side. A nuisance impact on the moorings could affect their attractiveness to visitors to the town.

The application is for live music to be played outside until midnight on any day of the week (although this is contradicted in the notes which say until 22.00). The notes also state occasional, referencing Bank Holidays. 22.00 on Bank Holidays may be acceptable but this needs to be clarified by the committee so as not to cause a spasmodic, unpredictable nuisance to local residents.

The application for recorded music to be played on any day until 23.00 or 00.00 is also inconsiderate of local residents.

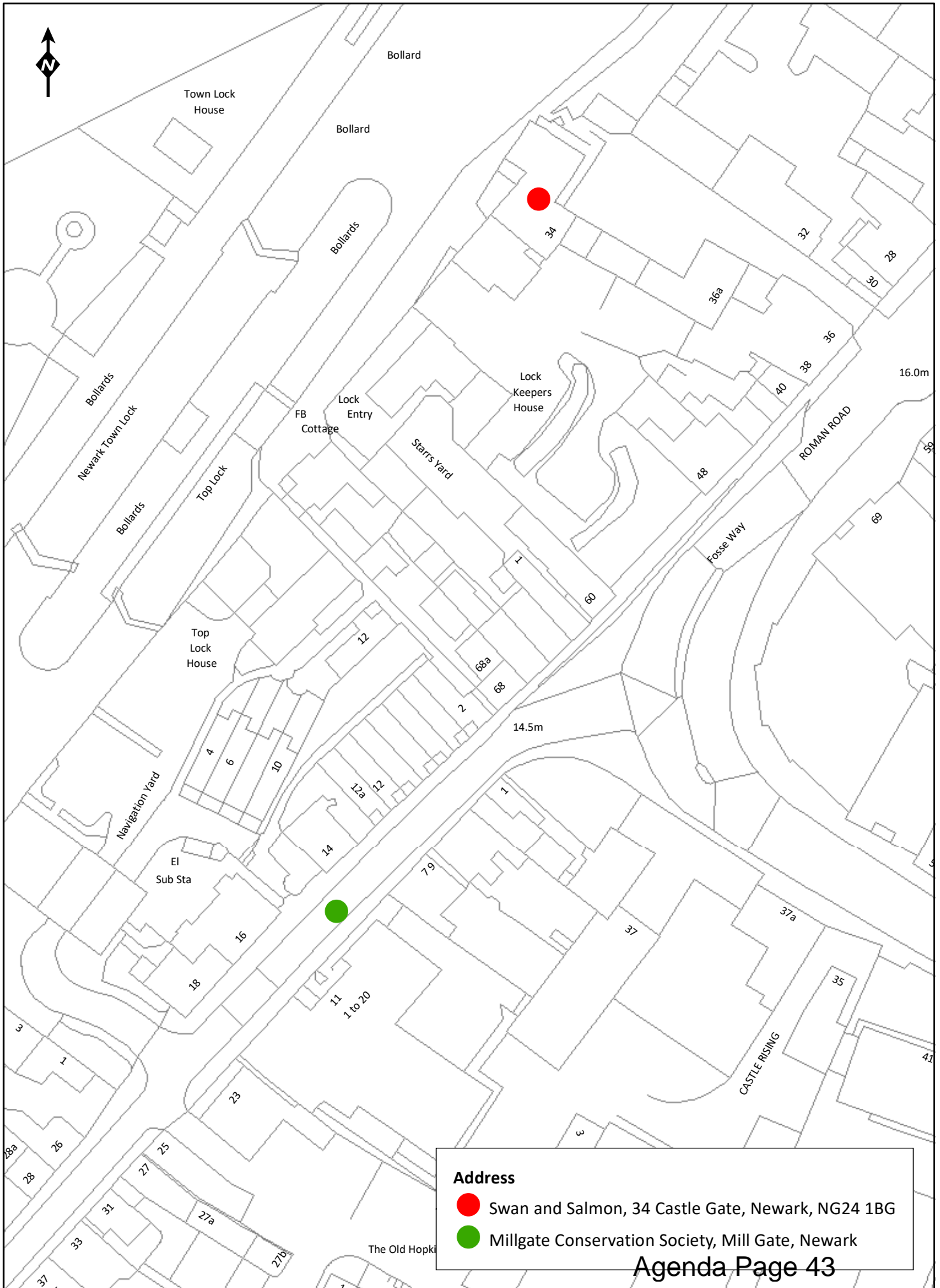
We would want the applicant to conduct a noise survey and to have effective noise monitoring in place including the use of visiting performers own equipment. There would need to be a dedicated outside security presence.

We would wish to see the end time on sales from the outside bar restricted to 21.00 on any day and 22.00 on any specific permitted opening eg Bank Holidays.

In the interests of public safety the committee may also wish to consider the use of glassware in an area spanning a public footpath.

Who is the DPS? Can the committee approve an application when ownership is not confirmed? As the application is unsigned is it valid for consideration by the committee?

Regards  
Millgate Conservation Society



**Address**

● Swan and Salmon, 34 Castle Gate, Newark, NG24 1BG

● Millgate Conservation Society, Mill Gate, Newark

## APPENDIX 6

### Further information requested by local authority responses

To date the local authority has not received any responses to the questions that they asked the applicant and representors at Schedule 1 of the Notice of Hearing.

*Newark and Sherwood District Council*

# Statement of Licensing Policy



# **Newark and Sherwood District Council**

# **STATEMENT OF LICENSING POLICY 2019-2023**

Effective from January 2019

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**1. INTRODUCTION**

- 1.1 Newark and Sherwood District Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the five year period to which the policy applies. The Statement of Licensing Policy can be reviewed and revised by the authority at any time.
- 1.2 Newark and Sherwood District covers 65,000 hectares with a population of approximately 112,000. The District has contrasting areas of agriculture, market towns, commuter villages and rural coalfield villages.
- 1.3 Throughout the District there are public houses, restaurants and takeaways, both in the rural parts of the district and in the more built up ones. Although some are well away from residential districts many are not, which may cause tension between those wishing to enjoy these leisure and hospitality venues and those simply wishing to enjoy a good night's sleep.
- 1.4 The Authority recognises that licensed premises are a major contributor to the economy of the District. They help to attract tourists and visitors, make for vibrant towns and communities and are a major employer.
- 1.5 The Council monitors the impact of licensing on regulated entertainment, and particularly live music and dancing. Where there is any indication that licensing requirements are deterring such events, the policy will be revisited with a view to investigating how the situation might be reversed. Only proportionate, reasonable and appropriate conditions should be imposed on any such events. As part of implementing the Council's Cultural Strategy proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.
- 1.6 The Council has obtained in its own name, premise licences for appropriate public spaces within the District including suitable Council owned art centres, community centres and many existing public open spaces such as the Castle Grounds and Market Place, Newark. In this instance performers and entertainers would not need to obtain a licence or give a Temporary Event Notice themselves to enable a performance to be given in such places but would require the permission of the appropriate Business Unit of the Council as the licence holder. They would also need to adhere to any conditions relating to the use of such premises.
- 1.7 This Policy Statement seeks to establish sensible controls and appropriate guidance to



encourage and further the efforts that are being made by the Council and its partners, together with the licensed trade, to help the Authority deal with issues that arise from licensable activities.

This will be achieved by:-

- Establishing and building upon best practice within the industry;
- Recognising and facilitating the role of partners and stakeholders;
- Encouraging self-regulation by licensees and managers;
- Providing a clear basis for the determination of licence applications; and
- Supporting related policies and strategies of the District Council.
- An inspection and enforcement regime targeted at premises that present a high risk.

1.8 The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. This Policy Statement therefore seeks to provide information on the general approach that the Authority will take in carrying out its licensing functions.

1.9 In preparing and publishing this Policy Statement due regard has been given to the guidance issued by the Secretary of State under section 182 of the Act, and to good practice advice issued by approved government advisory bodies. In particular the Authority has consulted those persons and bodies as required by the guidance and given proper weight to their views. Partnership working between Licensing Authorities in Nottinghamshire has enhanced the production of this Policy Statement and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

1.10 This Policy Statement should not be regarded or interpreted as indicating that any requirement of law may be overridden; each application will be considered and treated on its own merits. No restrictive controls will be introduced or imposed unless they are felt to be proportionate, necessary and appropriate.

1.11 There are certain matters which the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not allowed to take the issue of the “need” for further licensed premises into account when determining licence applications. On the other hand the cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that can be properly considered by the Authority. Cumulative impact and related matters are dealt with in section seven of this Policy Statement.

1.12 Nothing in this Statement of Policy prevents any one person or body applying for a variety of current permissions under the Act. Nor does it override the right of any Responsible Authority, other person or business to make representations or seek a review of a licence or

certificate where provision has been made for them to do so in the Act.

**2. THE LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES**

- 2.1 In exercising their functions under the Licensing Act 2003, Licensing Authorities must have regard to the licensing objectives as set out in section 4 of the Act. The licensing objectives are:
- (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- 2.2 Guidance on the Licensing Objectives is available on the Government's websites at: <https://www.gov.uk/alcohol-licensing>
- 2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act and conditions attached to various authorisations will be focused on matters which are within the control of the individual licence holder and others.
- 2.4 The Act only covers certain "licensable activities" namely:-
- (a) the sale by retail of alcohol
  - (b) the supply of alcohol by or on behalf of a club to a member
  - (c) the provision of "regulated entertainment" and
  - (d) the provision of late night refreshment
- 2.5 The definition of what constitutes "regulated entertainment" is complex and has been (and remains) the subject of Government deregulation. Whilst "regulated entertainment" potentially covers live or recorded music, dancing, plays, films, and certain types of sporting activity the Act itself provides various exemptions and restrictions on the types of activities which are subject to the Licensing regime. Other legislation such as the Live Music Act 2012 has removed the ability of the Licensing Authority to regulate live music at certain times and in certain circumstances. Deregulation initiatives have added further activities from those that are exempt from the licensing regime, particularly where it relates to entertainment taking place between 8am and 11pm and where that entertainment takes place before an audience of a prescribed size. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Licensing Authority will necessarily have the power to impose restrictions or conditions on such entertainment.

2.6 Where an activity is licensable the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from Responsible Authorities or other persons all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the operating schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before the Licensing Committee or one of its Panels. The Committee or Panel will then assess whether the application would result in the licensing objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned. Conditions will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing such matters consideration 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 imposition of standardised conditions is prohibited as being disproportionate and burdensome. It should be noted, however, that the Authority is permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn. Further details regarding such conditions are available on request.

### **3. HOW THIS STATEMENT OF POLICY WORKS**

3.1 The purpose of the Statement of Policy is to:

- provide a clear basis for determining licence applications;
- provide a clear framework for licensing strategies, including the effect known as ‘cumulative impact’;
- support wider strategies and policies of the Council.

3.2 The text of this Statement of Policy **in bold type** indicates the **Policies** with ***the reason*** for each policy shown immediately after ***in bold italics***.

3.3 This Policy sets out the Authority’s expectations in relation to certain matters. Whilst applicants are not obliged to meet these expectations in their Operating Schedules they may find that Responsible Authorities or other persons are more likely to raise representations if they do not. This can lead to a delay with the application having to be considered by a Committee/Panel which may then either refuse the application or impose conditions if the

application is not found to sufficiently promote the licensing objectives and meet this Policy. On appeal the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.

- 3.4 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraph 2.6 above. As a general rule the Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other regimes unless such obligations and requirements fail to adequately address the specific circumstances of the case.

#### **4. STRATEGIC LINKS AND OTHER REGULATORY REGIMES**

- 4.1 There is a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the Section 182 guidance produced by the Home Office <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>. The Authority will seek to have an active involvement in the development and review of these by ensuring an appropriate exchange of dialogue between the Licensing Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.
- 4.2 The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.
- 4.3 The four statutory licensing objectives aim to reduce crime and disorder and increase public safety. Licensing policies are not currently required to address Public Health concerns, however, there is strong evidence that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related mortality. Alcohol contributes to more than 60 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity.
- 4.4 Whilst the exact relationship between alcohol and ill-health is often complex and affected by other factors such as the socioeconomic make-up of the neighbourhood, studies have found

that local authorities' greater use of licensing powers leads to reductions in alcohol-related hospital admissions in England (Institute of Alcohol Studies, 2017). In light of this, this authority has reviewed Public Health indicators both at District level from the Local Alcohol Profiles for England and at sub-district level.

- 4.5 Across Newark and Sherwood Public health analysts have mapped a number of alcohol-related measures that are considered to have a negative impact on health and wellbeing to show how the relative levels of these measures vary across Nottinghamshire County Districts and Boroughs.
- 4.6 Measures used were selected for their relevance to licensing and public health and their availability at sub-district level and include alcohol-related hospital admissions, anti-social behaviour, crimes against the person including domestic violence, rate of persons in treatment for substance misuse, an estimate of the percentage of the population drinking at least once a day and deprivation.
- 4.7 This has identified some areas with relatively higher levels of harm and for Newark & Sherwood this includes parts of Ollerton, Clipstone, Rainworth, Blidworth and Newark. Applications within these areas or surroundings should be aware of, and give consideration to, their contribution to the burden of alcohol-related harms to the health and wellbeing within the community

## **5. DELIVERING LICENSING SERVICES**

- 5.1 The Authority will make available guidance and such resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through Newark & Sherwood District Council web site, following the link for Licensing or by contacting the Authority direct.
- 5.2 The Licensing Authority will maintain an impartial role in service delivery and cannot act in favour of one party over another. The Licensing Authority may, in certain circumstances, act as a Responsible Authority. However this will only be done in exceptional circumstances and the Licensing Authority will not normally take over the role of other Responsible Authorities or parties.
- 5.3 Responsible Authorities are public bodies which must be fully notified of licence applications and are entitled to:
- Make relevant representations
  - Request reviews
  - Make representations with regard to cumulative impacts

Details of Responsible Authorities can be found on the Licensing pages of the Council's website.

## **6. APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION**

- 6.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations. Further advice on these processes is available on the Council's web site. This section of the policy gives basic guidance on how those applications and notifications will be considered. Failure to comply with the statutory requirements may result in the application or notice being invalid. To ensure the application is completed fully, applicants must consider the contents of this policy statement, the government guidance issued under section 182 Licensing Act 2003 and relevant guidance published by the licensing authority. Applicants are encouraged to seek advice from the licensing authority and responsible authorities before submitting an application. Failure to comply with the statutory requirements may result in an application or notice being invalid/rejected
- 6.2 The processes of applying for new premises licences and full variations of current premises licences are dealt with in same way and involve serving the application on all Responsible Authorities and advertising the application in the prescribed way. If objections are received the matter will be heard by the Licensing Committee of the Council. The fee for such applications depends on the size of the premises.
- 6.3 The process of a minor variation to current premises licences are dealt with differently. Minor variations can be applied for to vary times of activities but not to increase the hours when alcohol can be sold. The process can also be used when making minor structural alterations to the premises and to add or remove conditions from the licence. These minor variations should not have a material effect on the way in which the premises are operated, and there is one set fee. The granting of a minor variation is determined at officer level after consultation with those Responsible Authorities affected. If the application is refused the applicant can resort to the full variation process.
- 6.4 All applicants are encouraged to use the gov.uk site to submit on line applications.
- ### **6.5 Representations**
- 6.5.1 Where the licensing authority receives an application for a new licence or a variation to an existing licence, the responsible authorities and other persons have 28 days to make representations about the application. Representations can be positive as well as negative. Guidance on making a representation is available from the Home Office and a preferred form

is available on the Council's Licensing web page for individuals or groups to make their representations.

- 6.5.2 Submissions of representations made via e-mail will be accepted so long as there is a clear indication of who has submitted the representation, it is clear and legible and details of how that person or group can be contacted.
- 6.5.3 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined. The Licensing Authority also has the power to reject a representation made by someone other than a Responsible Authority if it finds it to be vexatious or frivolous. An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader, where there is no relevance or link was made to any of the licensing objectives.
- 6.5.4 Members of the public who wish to submit a representation need to be aware that their personal details will be made available to the applicant. If this is an issue, they may contact their ward Councillor or other locally recognised body such as a resident's association about submitting a representation on their behalf. The Council is not able to accept anonymous representations.
- 6.5.5 Where a representation proceeds to a hearing the Hearings Regulations allow for further information to be put forward in support of that representation. However, that material must only relate to the initial representation and must not add new grounds of objection. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.
- 6.5.6 It is for the Licensing Authority to determine whether any representation by an interested party is, on its own merits, vexatious or frivolous. The Authority will determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous.
- 6.5.7 Where representations are received, the characteristics of an area and the impact that the premises may have upon that area, will be a fundamental consideration in determining whether a licence should be granted, and if so what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the "vicinity" will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the

licensed activity on those who live, work or are engaged in business or other activities in the area concerned.

## **6.6 Responsible Authorities**

- 6.6.1 Although the licensing authority is a responsible authority in its own right, it expects other parties such as local residents, Councillors or community groups should make representations in their own right when they are reasonably able to do so rather than rely on the licensing authority to make representations for them.
- 6.6.2 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not yet a licensing objective but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

## **6.7 Panel/Committee Hearings**

- 6.7.1 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee/Panel unless the issue that led to the representation can be negotiated to an agreed conclusion between the parties.
- 6.7.2 The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry, which may include participation in such schemes as Pub Watch, Best bar None, Purple Flag or Business Improvement Districts, to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

## **7. LICENSING POLICIES**

### **POLICY 1**

**The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.**

***REASON: To ensure the promotion of the licensing objectives.***



7.1 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises, rather it is part of a holistic approach to the management of the District.

7.2 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to the Section 182 Guidance in this respect and the following may be employed to address such behaviour and the potential for cumulative impact.

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.
- The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- The confiscation of alcohol from adults and children in designated areas.
- Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
- Prosecution for the offence of selling alcohol (or allowing such a sale) to a person who is drunk.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance.
- The power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question.
- Early Morning Alcohol Restriction Orders (EMROs).
- Any other local initiatives that similarly address these problems.

**POLICY 2**

**When preparing or considering applications, applicants, Responsible Authorities, other persons and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:**

- (i) The nature of the area within which the premises are situated.**
- (ii) The precise nature, type and frequency of the proposed activities.**
- (iii) Any measures proposed by the applicant in the Operating Schedule.**
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.**
- (v) Means of access to and exit from the premises.**
- (vi) The provision and availability of adequate seating and the restriction of standing areas.**

- (vii) Noise from the premises or people visiting the premises**
- (viii) The potential cumulative impact (see below).**
- (ix) Other means and resources available to mitigate any impact.**
- (xi) Such other matters as may be relevant to the application.**

***REASON: To ensure that all relevant matters are taken into consideration during the application process.***

- 7.3 The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:
- Knowledge of best practice
  - That they understand the legal requirements of operating a licensed business
  - Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003
- 7.4 The operating schedule must include all of the information necessary to enable the licensing, responsible authorities and members of the public to assess whether the steps outlined for the promotion of the licensing objectives are sufficient. This will mean that applicants will need to complete their own risk assessments on their businesses. Where the operating schedule does not provide enough detail, there is an increased likelihood that representations will be made.
- 7.5 The authority will expect that the completed operating schedule is specific to the premises subject to the application and the licensable activities to be carried out rather than containing general or standard terms
- 7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking or moving from one part of the premises to another), must be recognised and mitigated against.
- 7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.
- 7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In

noise-sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 7.9 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 7.10 The Authority is mindful of the responsibilities that licence holders have for preventing anti social behaviour on and within the vicinity of their premises. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate, conditions will be imposed which reflect local crime prevention strategies
- 7.11 Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing Policy 2 may be outlined in more detail in any guidance issued by the Responsible Authorities but could include the matters listed below where appropriate.
- 7.12 Examples of recommended management practice to minimise Crime and Disorder:
- The provision of seating and restriction of 'standing only' premises to provide less congestion and potential for disorder
  - Use of CCTV both within and outside the premises.
  - Metal detection and search facilities.
  - Procedures for risk assessing promotions and events such as “happy hours” and plans for minimising such risk.
  - Measures to prevent the use or supply of illegal drugs.
  - Employment of licensed door supervisors and other appropriately trained staff.
  - Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. bar tariffs (for all bar price lists to carry a guide of how many units of alcohol each individual drink contains) and recommendations that all licensees, managers or supervisors attend regular meetings or send a representative if they cannot attend.
  - The licensee providing a taxi call point, waiting and concierge service for taxi marshalling at the licensed premises.
  - Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.

7.13 Examples of recommended management practice to ensure public safety:

- The preparation and application of appropriate risk assessments.
- The setting and monitoring of occupancy levels for the premises.
- Reasonable facilities, access and egress for people with disabilities.
- Having glassware policies.

7.14 Examples of recommended management practice for the protection of children and vulnerable adults:

- Exclusion from the premises in certain circumstances.
- Implementation of a robust proof of age scheme.
- Training staff in their responsibility not to serve to a person when drunk
- Encouraging staff to attend vulnerability training
- Providing facilities to support vulnerable adults when assistance is required. (access to phone and/or charge, cold water, safe room away from others)

7.15 **Supply of Alcohol (Off Sales)**

- the display of prominent warning notices about the supply of alcohol to minors;
- knowledge of the offences which adults can commit by buying alcohol for minors;
- the requirements for production of satisfactory proof of age;
- a commitment to the promotion of age verification schemes (i.e. Challenge 21 /Challenge 25);
- whether any high strength beers, lagers, ciders, etc will be made available for sale.

7.16 Examples of recommended management practice for preventing nuisance:

- Keeping doors and windows of licensed premises closed to minimise noise break-out.
- Sound limiting devices, or insulation to contain sound and vibration so as to address noise break-out not only from music but also, for example, from air handling equipment, generators or patrons.
- With popular premises that attract queues ensuring that the direction of any queue is away from residential accommodation.
- Proper and adequate door supervision.
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
- Arrangements with licensed taxis or private hire vehicles to take patrons from the premises.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.

- Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
- Adequate provisions for dealing with litter/refuse arising from the operation of premises.
- Appropriate times for, and methods of dealing with, bottle delivery, disposal and collection.
- The licensee providing a help line or contact number for concerned residents.

7.17 In some cases it may be helpful for applicants and/or their advisors to discuss their draft Operating Schedule with representatives of Responsible Authorities, before it is submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.

7.18 In order to provide a consistent and clear approach, when considering the addition of conditions to a licence the Licensing Authority will where possible use a condition from a 'pool of potential conditions' that has been agreed by all the Licensing Authorities in Nottinghamshire. Other Responsible Authorities will be encouraged to do like wise.

7.19 Any condition attached to a licence or certificate should be:

- clear
- enforceable
- evidenced
- proportionate
- relevant
- be expressed in plain language capable of being understood by those expected to comply with them

7.20 As a general rule, the Licensing Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other regimes unless such obligations and requirements fail to adequately address the specific circumstances of the case.

### **7.21 Outside areas**

7.21.1 The prohibition on smoking in enclosed public spaces has increased the demand for outside areas. Applicants are reminded that whilst they can be a valuable addition to the business, they can cause increased nuisance and disorder for residents. Operating schedules should detail how noise nuisance and disorder will be dealt with.

7.21.2 Although consumption of alcohol is not a licensable activity, if the plan does not show outside area such as beer gardens or similar, then any premises licence authorising the sale of alcohol on the premises only would not authorise the use of such areas.

### **7.22 Large Scale Events**

7.22.1 Existing licensed premises which intend to run one-off large scale events (and particularly dance events) are encouraged to consult with the responsible authorities and the Safety Advisory Group well in advance of the event taking place, to ensure that the event does not undermine the licensing objectives.

### **7.23 Cumulative Impact**

7.23.1 Cumulative Impact Assessments (CIA's) were introduced in the Licensing Act 2003 by the Policing and Crime Act 2017.

7.23.2 This potential impact on the promotion of the Licensing Objectives by a significant number of licensed premises concentrated in one area is called "cumulative impact". This should not be confused with the issue of "need" which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications.

7.23.3 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

7.23.4 The CIA must include a statement saying that the licensing authority considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its opinion. Any CIA published by the Council will be summarised in the Statement of Licensing Policy.

7.23.5 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact.

7.23.6 Having taken into account the evidence presented, the Council is satisfied that there are no areas within the Newark and Sherwood District presently suffering from cumulative impact. Should this situation change, the Council will consider the available evidence and consult with those bodies and individuals listed in the Licensing Act 2003. If the Council is satisfied that it

would be appropriate to publish a CIA, it will be published on the Council's website and a summary will be included in this statement of licensing policy.

7.23.7 Responsible Authorities and Interested Parties may still make representations on specific applications concerning cumulative impact even though those applications are not for premises in an area covered by a cumulative impact Policy. In such circumstances the application may be refused, (though there will be no presumption that this will be the case), and the Authority may then choose to review this Statement of Policy and consult as to whether the particular area should be designated as an area to which a cumulative impact Policy should apply.

#### **7.24 Public Space Protection Orders**

7.24.1 The authority supports the use of public space protection orders as a tool to prevent alcohol related crime and disorder in the streets. The authority expects premises that operate in areas where DPPOs have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behaviour

#### **7.25 Encouraging Diversity**

7.25.1 The Licensing Authority recognises that creating a vibrant night time economy is important. Key to this is ensuring that the area appeals to a wide group of people including families and older adults who may not wish to frequent premises where the main, if not only attraction is the consumption of alcohol.

7.25.2 Applications for premises whose predominant offer is vertical drinking are not encouraged, but if applications are made for such premises, it is expected that the operating schedule will demonstrate robust arrangements for promoting the licensing objectives.

#### **7.26 Provisional Statements**

7.26.1 Where it is proposed to build or alter premises which may require a premises licence then the Licensing Act permits an application for a Provisional Statement. This application is dealt with in the same way as an ordinary application but does not result in the issue of a premises licence. That is applied for when the premises are complete.

7.26.2 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded.

#### **7.27 Adult Entertainment**

- 7.27.1 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed application form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.
- 7.27.2 Applicants for new licences or variations of existing licences must also indicate the nature of any adult entertainment to be carried out at the premises. Where this section contains no information it will be assumed that there are no intentions to allow such activities and the licensing authority will impose a condition to that effect.
- 7.27.3 Newark and Sherwood District Council has adopted Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 which means that venues proposing to provide sexual entertainment must apply for a sexual entertainment venue licence in addition to the premises licence under the Licensing Act 2003.
- 7.27.4 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that does permit premises to offer sexual entertainment no more than 11 times a year and no more frequently than monthly. Where operators intend to take advantage of this exemption, the licensing authority expects a clear explanation in the operating schedule of the proposed signage, publicity and external advertising/display materials. Explicit material should not be visible while signage relating to the nature of the entertainment and the exclusion of children should be prominent and conspicuous.
- 7.27.5 The provision of adult entertainment on premises may mean that access by children will not be permitted during periods when such entertainment is taking place. The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment, such as issues relating to drugs and prostitution.
- 7.27.6 Responsible Authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

## **7.28 Licence Suspensions**

- 7.28.1 The Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing Authority. In such cases there will be a grace



period of 21 days to allow the matter to be resolved. If the matter is not resolved within the grace period the licence must be suspended.

7.28.2 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

## **7.29 Reviews**

7.29.1 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority, business, organisation or other persons may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.

7.29.2 Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority, the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action, even in the first instance.

## **7.30 Early Morning Alcohol Restriction Orders (EMRO)**

7.30.1 The legislation gives Licensing Authorities discretion to restrict sales of alcohol by introducing an Early Morning Alcohol Restriction Order to restrict the sale or supply of alcohol to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the Licensing Authority area, and if relevant on specific days and at specific times. The Licensing Authority must be satisfied that such an order would be appropriate to promote the licensing objectives.

7.30.2 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

7.30.3 The decision to implement an EMRO should be evidence based and may include consideration of the potential burden imposed as well as the potential benefits.

**7.31 Personal Licences**

7.31.1 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction ( for relevant or foreign offences as defined by the act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In these cases a licence will still be granted unless an objection is received within the prescribed period.

**POLICY 3**

**When considering an objection notice or immigration objection notice the authority will take the following matters into consideration**

- (i) The circumstances in which the offences were committed or the penalty imposed;**
- (ii) The period that has elapsed since the offence(s) were committed or the penalty imposed;**
- (iii) Whether the offences/penalty reveal a pattern of offending or were a one-off occurrence; and**
- (iv) Any mitigating circumstances.**

**In consideration of an objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so in order to promotion of the crime prevention objective.**

**In consideration of an immigration objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so for the prevention of illegal working in licensed premises.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.***

7.31.2 Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the

relevant period a Hearing will be held to determine whether the licence should be revoked.

7.31.3 Where the authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence. Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- The offence /penalty
- Any decision a court made regarding the licence at the time of the conviction
- Any other relevant information (including the holder's personal circumstances)

7.31.4 After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence, notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. **The Act does not require a hearing to be held at any stage during the process**, although the Authority may invite the licence holder to make a personal representation. Licence holders (and the police) will be notified of the Authority's decision in writing along with their right of appeal

## **7.32 Temporary Event Notices**

7.32.1 There are two types of types of Temporary Event Notice,

- A standard TEN
- A Late TEN

7.32.2 A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served not before nine and not less than five working days before the event to which it relates.

7.32.3 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objectives. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

7.32.4 Persons serving Temporary Event Notices must also serve a copy notice on the police and the

Responsible Authority for Environmental Health functions i.e. the Council's Environmental Health section, except when the TEN is served electronically/digitally

7.32.5 Further information regarding Temporary Event Notices is contained on the Council's web pages.

## **8. CHILDREN**

8.1 Newark and Sherwood District Council is committed to the Safeguarding of children and vulnerable adults. The Licensing Act places legal responsibilities on holders of Premises licences and Clun Premises Certificates and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

8.2 The Authority in partnership with the police, the Nottinghamshire Safeguarding Board and the Community Safety Partnership works closely with licensed premises in order to build awareness across the industry as to how those that work in such establishments may better recognise the indicators of children and vulnerable adults who may be subject to, or at risk of abuse, exploitation and trafficking and the reporting mechanisms for these concerns.

8.3 When considering applications for new or variations to existing premises the Authority will seek to be assured that applicants have considered the safeguarding of children and vulnerable adults within the operating schedule of the application.

8.4 Where there are concerns over the potential for harm to children from licensable activities, the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:

- The Nottinghamshire Safeguarding Children Board.

Applications should therefore be copied to this body in its capacity as a Responsible Authority

8.5 Examples which may give rise to concerns in respect of children include those:

- Where there have been convictions for serving alcohol to minors
- Where there is a reputation for underage drinking
- Where there is a known association for drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

- 8.6 Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.
- 8.7 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

**POLICY 4**

**Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:**

- (i) Limitations on the hours when children may be present.**
- (ii) Age limitations for persons under 18.**
- (iii) Limitations or exclusion when certain activities are taking place.**
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.**
- (v) Limitations of access to certain parts of the premises for persons under 18.**
- (vi) A requirement for adults to be present.**

***REASON: To protect children from harm.***

- 8.8 Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- The person they are selling alcohol to is over 18
  - That alcohol is only delivered to a person over 18
  - That a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer
  - The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

**8.9 Age verification policies**

- 8.9.1 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Council favours the Challenge 25 scheme and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the Council determines the licence application.

**9. EQUALITY AND DIVERSITY**

- 9.1 Delivery of the licensing regime will be in accordance with the Council's Equal Opportunities Policy. Compliance with this Policy will be subject to on-going monitoring and customer/stakeholder consultation during the life of this Policy. Relevant matters that come to light as a result of monitoring and consultation may result in changes to service delivery and where necessary may result in changes to the Council's licensing policy.
- 9.2 Newark & Sherwood District Council is committed to implementing and upholding equality and diversity in everything it does. The Council strives to be an effective service provider, community leader and corporate body, and in doing so, recognises the importance of meeting the needs of the diverse mix of communities represented amongst its residents, service users and workforce. In meeting those needs the Council will develop and harness a safe and sustainable community inclusive to all.
- 9.3 To affirm its commitment and to ensure continuous improvement, the Council uses the Equality Standard for Local Government as the improvement framework against which to assess its performance and development in equality and diversity. All council policies are subject to Equalities Impact Assessments.
- 9.4 Advice and guidance will be made available in English, which is the most common language of customers and stakeholders. On request the Council will signpost customers to providers of guidance and information relating to translation services.

**10. GENERAL ENFORCEMENT STATEMENT**

- 10.1 All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance, relevant codes of practice and the enforcement policy of the Council
- 10.2 The Authority has established and maintains enforcement protocols with the local police and other relevant enforcement agencies.

**11. MONITORING AND REVIEW OF THIS STATEMENT OF POLICY**

- 11.1 This Statement of Policy will be reviewed within legislative timescales and as and when appropriate. In preparing the succeeding Statement of Policy regard will be had to data and information collated over the operating period of the current policy, together with trends and the outcome of related initiatives from both local sources and nationally issued data and guidance.

## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.



## Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the

early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18);
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate

authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

**Table of relevant offences under the 2003 Act**

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

## 8. Applications for premises licences

### Relevant licensing authority

- 8.1 Premises licences are issued by the licensing authority in which the premises are situated or, in the case of premises straddling an area boundary, the licensing authority where the greater part of the premises is situated. Where the premises is located equally in two or more areas, the applicant may choose but, in these rare cases, it is important that each of the licensing authorities involved maintain close contact.
- 8.2 Section 13 of the 2003 Act defines the parties holding important roles in the context of applications, inspection, monitoring and reviews of premises licences.

### Authorised persons

- 8.3 The first group –“authorised persons”– are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. The police and immigration officers are not included because they are separately empowered by the 2003 Act to carry out their duties.
- 8.4 For all premises, the authorised persons include:
- officers of the licensing authority;
  - fire inspectors;
  - inspectors with responsibility in the licensing authority’s area for the enforcement of the Health and Safety at Work etc Act 1974;
  - officers of the local authority exercising environmental health functions
- 8.5 Local authority officers will most commonly have responsibility for the enforcement of health and safety legislation, but the Health and Safety Executive is responsible for certain premises. In relation to vessels, authorised persons also include an inspector or a surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995. These would normally be officers acting on behalf of the Maritime and Coastguard Agency. The Secretary of State may prescribe other authorised persons by means of regulations, but has not currently prescribed any additional bodies. If any are prescribed, details will be made available on the GOV.UK website.
- 8.6 Where an immigration officer has reason to believe that any premises are being used for a licensable activity, the officer may enter the premises with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the licensable activity.

### Responsible authorities

- 8.7 The second group –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:
- the relevant licensing authority and any other licensing authority in whose area part of

- the premises is situated;
- the chief officer of police;
  - the local fire and rescue authority;
  - the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
  - the local authority with responsibility for environmental health;
  - the local planning authority;
  - a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
  - each local authority's Director of Public Health (DPH) in England<sup>4</sup> and Local Health Boards (in Wales);
  - the local weights and measures authority (trading standards); and
  - Home Office Immigration Enforcement (on behalf of the Secretary of State).
- 8.8 The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or another competent body. This is important as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant.
- 8.9 In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated when being used for licensable activities; the Environment Agency; the Canal and River Trust; and the Secretary of State (who in practice acts through the Maritime and Coastguard Agency (MCA)). In practice, the Environment Agency and the Canal and River Trust only have responsibility in relation to vessels on waters for which they are the navigation statutory authority.
- 8.10 The MCA is the lead responsible authority for public safety, including fire safety, affecting passenger ships (those carrying more than 12 passengers) wherever they operate and small commercial vessels (carrying no more than 12 passengers) which go to sea. The safety regime for passenger ships is enforced under the Merchant Shipping Acts by the MCA which operates certification schemes for these vessels. Fire and rescue authorities, the Health and Safety Executive and local authority health and safety inspectors should normally be able to make "nil" returns in relation to such vessels and rely on the MCA to make any appropriate representations in respect of this licensing objective.
- 8.11 Merchant Shipping legislation does not, however, apply to permanently moored vessels. So, for example, restaurant ships moored on the Thames Embankment, with permanent shore connections should be considered by the other responsible authorities concerned with public safety, including fire safety. Vessels carrying no more than 12 passengers which do not go to sea are not subject to MCA survey and certification, but may be licensed by the local port or navigation authority.

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<sup>4</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.



- 8.12 The Secretary of State may prescribe other responsible authorities by means of regulations. Any such regulations are published on the Government's legislation website: [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **Other persons**

- 8.13 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.
- 8.14 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

## **Who can apply for a premises licence?**

- 8.15 Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period.
- 8.16 "A person" in this context includes, for example, a business or a partnership. Licensing authorities should not require the nomination of an individual to hold the licence or determine the identity of the most appropriate person to hold the licence.
- 8.17 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.
- 8.18 A public house may be owned, or a tenancy held, jointly by a husband and wife, civil partners or other partnerships of a similar nature, and both may be actively involved in carrying on the licensable activities. In these cases, it is entirely possible for the husband and wife or the partners to apply jointly as applicant for the premises licence, even if they are not formally partners in business terms. This is unlikely to lead to the same issues of clouded accountability that could arise where two separate businesses

apply jointly for the licence. If the application is granted, the premises licence would identify the holder as comprising both names and any subsequent applications, for example for a variation of the licence, would need to be made jointly.

- 8.19 A wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for premises licences. They include, for example, Government Departments, local authorities, hospitals, schools, charities or police forces. In addition to the bodies listed in section 16, the Secretary of State may prescribe by regulations other bodies that may apply and any such regulations are published on the Government's legislation website. There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held.

## **Application forms**

- 8.20 The Provision of Services Regulations 2009 require local authorities to ensure that all procedures relating to access to, or the exercise of, a service activity may be easily completed, at a distance and by electronic means. Electronic application facilities for premises licences may be found either on GOV.UK or the licensing authority's own website. It remains acceptable to make an application in writing.

## **Electronic applications**

- 8.21 Applicants may apply using the licence application forms available on GOV.UK, or will be re-directed from GOV.UK to the licensing authority's own electronic facility if one is available. Applicants may also apply directly to the licensing authority's facility without going through GOV.UK.

## **Electronic applications using forms on gov.uk**

- 8.22 GOV.UK will send a notification to the licensing authority when a completed application form is available for it to download from GOV.UK. This is the day that the application is taken to be 'given' to the licensing authority, even if it is downloaded at a later stage, and the application must be advertised from the day after that day (as for a written application). The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.
- 8.23 The period of 28 consecutive days during which the application must be advertised on a notice outside the premises is, effectively, the statutory timescale by which the application must be determined (unless representations are made). This will be published on GOV.UK and must also be published on the licensing authority's own electronic facility if one exists. If no representations are made during this period, the licensing authority must notify the applicant as quickly as possible that the licence has been granted. The licensing authority must send the licence to the applicant as soon as possible after this, but the applicant may start the licensed activity as soon as they have been notified that the application is granted (subject to compliance with the conditions of the licence). The licence may be supplied in electronic or written format as long as the applicant is aware which document constitutes 'the licence'. If representations are made, the guidance in Chapter 9 applies.

## **Requirement to copy application to responsible authorities**

- 8.24 The licensing authority must copy electronic applications, made via GOV.UK or its own facility, to responsible authorities no later than the first working day after the application

is given. However, if an applicant submits any part of their application in writing, the applicant will remain responsible for copying it to responsible authorities.

### **Applications via the local authority electronic application facility**

8.25 Where applications are made on the licensing authority's own electronic facility, the application will be taken to be 'given' when the applicant has submitted a complete application form and paid the fee. The application is given at the point at which it becomes accessible to the authority by means of the facility. The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.

### **'Holding' and 'deferring' electronic applications**

8.26 The Government recommends (as for written applications) that electronic applications should not be returned if they contain obvious and minor errors such as typing mistakes, or small errors that can be rectified with information already in the authority's possession. However, if this is not the case and required information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all the required information. This effectively resets the 28 day period for determining an application and may be done any number of times until the application form is complete. Licensing authorities must ensure that they notify the applicant as quickly as possible of any missing (or incorrect) information, and explain how this will affect the statutory timescale and advertising requirements.

8.27 If an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises by the time that the licensing authority downloads the application. It is therefore recommended that, if a licensing authority holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. The licensing authority should also advise the applicant that they should not advertise the application in a local newspaper until they have received confirmation from the licensing authority that the application includes all the required information. To ensure clarity for applicants, the Government recommends that licensing authorities include similar advice on their electronic application facilities (where these exist) to ensure that applicants do not incur any unnecessary costs.

8.28 If an applicant persistently fails to supply the required information, the licensing authority may refuse the application and the applicant must submit a new application.

8.29 Licensing authorities may also 'defer' electronic applications once if the application is particularly complicated, for example if representations are received and a hearing is required. This allows the licensing authority to extend the statutory time period for the determination of the application by such time as is necessary, including, if required, arranging and holding a hearing. Licensing authorities must ensure that applicants are informed as quickly as possible of a decision to defer, and the reasons for the deferral, before the original 28 days has expired.

### **Written applications**

8.30 A written application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, it would not be appropriate to send an application for premises

which was not a vessel to the Maritime and Coastguard Agency. The application must be accompanied by:

- the required fee (details of fees may be viewed on the GOV.UK website);
- an operating schedule (see below);
- a plan of the premises in a prescribed form; and
- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor (DPS).

- 8.31 If the application is being made by an individual it should be accompanied by acceptable evidence of entitlement to work in the UK (this includes where the application is submitted electronically), as set out in the application form (see paragraph 4.8).
- 8.32 If the application is being made in respect of a community premises, it may be accompanied by the form of application to apply the alternative licence condition.
- 8.33 Guidance on completing premises licence, club premises certificate and minor variation forms can be found on the GOV.UK website. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 contain provision about the prescribed form of applications, operating schedules and plans and are published on the [legislation.gov.uk](http://legislation.gov.uk) website.

## Plans

- 8.34 Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is “clear and legible in all material respects”, i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

## Beer gardens or other outdoor spaces

- 8.35 Applicants will want to consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. In scenarios where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer this would be treated as an off-sale and any conditions that relate to off-sales would apply.
- 8.36 In such cases it will be not necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).
- 8.37 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed

application form requires the applicant to provide a description of where the place is and its proximity to the premises.

## **Entitlement to work in the UK**

- 8.38 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. From 6 April 2017 licensing authorities must be satisfied that an individual who applies for a premises licence is entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only. For example, a person applying for a licence for a music venue who does not intend to sell alcohol or late night refreshment is not prohibited from applying for a licence on grounds of immigration status. However, they will commit a criminal offence if they work illegally.
- 8.39 The documents which may be relied on in support of an application demonstrating an entitlement to work in the UK are the same as for personal licence applicants see paragraph 4.8. Where there is sufficient evidence that the applicant is not resident in the UK there is no requirement that the applicant has an entitlement to work in the UK.
- 8.40 Where an applicant's permission to work in the UK is time-limited the licensing authority may issue a premises licence for an indefinite period, but the licence will become invalid when the immigration permission expires. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licensee from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to a curtailment or revocation), any licence issued on or after 6 April 2017 which authorises the sale of alcohol or provision of late night refreshment will automatically lapse. As with personal licences, the licensing authority is under no duty to carry out on going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. For further details on entitlement to work see paragraphs 4.8 to 4.18.

## **Steps to promote the licensing objectives**

- 8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.
- 8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
  - any risk posed to the local area by the applicants' proposed licensable activities; and
  - any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.
- 8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
  - Neighbourhood Statistics websites;
  - websites or publications by local responsible authorities;
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.
- 8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached

to premises licences with the minimum of fuss.

- 8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

## **Variations**

### **Introduction**

- 8.50 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

### **Simplified processes**

- 8.51 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);
  - an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
  - a request to be removed as the designated premises supervisor (section 41);
  - an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
  - an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).
- 8.52 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.
- 8.53 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

### **Minor variations process**

- 8.54 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display

it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. In accordance with those regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

- 8.55 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. It is recommended that decisions on minor variations should be delegated to licensing officers.
- 8.56 In considering the application, the licensing authority must consult relevant responsible authorities (whether the application is made in writing or electronically) if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. The application is unlikely to be relevant to all responsible authorities.
- 8.57 The licensing authority must also consider any relevant representations received from other persons within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives; representations must be confined to the subject matter of the variation. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.
- 8.58 Other persons have ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.
- 8.59 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the 2003 Act for the definition of working day), the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.60 Where an application is refused and is then re-submitted through the full variation process, the full 28 day notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.61 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

### **Changes to structure/layout**

- 8.62 Many small variations to layout will have no adverse impact on the licensing objectives.



However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- increasing the capacity for drinking on the premises;
- affecting access between the public part of the premises and the rest of the premises or the street or public way, for instance, block emergency exits or routes to emergency exits; or
- impeding the effective operation of a noise reduction measure such as an acoustic lobby.

- 8.63 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up-to-date copy of the premises plan available.
- 8.64 An application to remove a licensable activity should normally be approved as a minor variation. Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.
- 8.65 For other licensable activities, licensing authorities will need to consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

## **Licensing hours**

- 8.66 Variations to the following are excluded from the minor variations process and must be treated as full variations in all cases:
- to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
  - to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 8.67 Applications to reduce licensing hours for the sale or supply of alcohol or, in some cases, to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.
- 8.68 Applications to vary the time during which other licensable activities take place should be considered on a case-by-case basis with reference to the likely impact on the licensing objectives.

## **Licensing conditions**

### **a) Imposed conditions**

- 8.69 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

**b) Volunteered conditions**

- 8.70 Applicants may volunteer conditions as part of the minor variation process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.
- 8.71 For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence (for example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal). Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licence holder and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licence or certificate holders into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

**c) Amending or removing existing conditions**

- 8.72 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.
- 8.73 Changes in legislation may invalidate certain conditions. Although the conditions do not have to be removed from the licence, licence holders and licensing authorities may agree that this is desirable to clarify the licence holder's legal obligations. There may also be cases where it is appropriate to revise the wording of a condition that is unclear or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licence holder to understand and comply with the condition and easier for the licensing authority to enforce it.

**Full variations process**

- 8.74 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.75 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the 2003 Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).
- 8.76 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:

- extend a time limited licence;
- transfer the licence from one holder to another; or
- transfer the licence from one premises to another.

8.77 If an applicant wishes to make these types of changes to the premises licence, the applicant should make a new premises licence application under section 17 of the 2003 Act; or, to transfer the licence to another holder, an application under section 42 of the 2003 Act.

## **Relaxation of opening hours for local, national and international occasions**

- 8.78 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays and St. George’s or St. Patrick’s Day – and to include appropriate opening hours in their operating schedules. Similarly, temporary event notices should be sufficient to cover other events which take place at premises that do not have a premises licence or club certificate.
- 8.79 However, exceptional events of local, national or international significance may arise which could not have been anticipated when the application was first made. In these circumstances, the Secretary of State may make a licensing hours order to allow premises to open for specified, generally extended, hours on these special occasions. This avoids the need for large numbers of applications to vary premises licences and club premises certificates. Typical events might include a one-off local festival or a Royal Jubilee.

## **Advertising applications**

- 8.80 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in Regulations 25 and 26 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 which are published on the Government’s legislation website.
- 8.80 Applicants are required to:
- publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated; and
  - display a brief summary of the application on an A4 (or larger) size notice, on pale blue paper in a prominent position immediately on or outside the premises for at least 28 consecutive days (starting on the day after the day on which the application was given to the relevant licensing authority). The notice must be printed legibly in black ink or typed in black in size 16 font or larger.
  - ensure that the above notices contain the name of the applicant, postal addresses of the premises (or if there is no postal address a description of the premises sufficient to enable the location to be identified), relevant licensing authority and the date by which any representations in relation to the application need to be made to the licensing authority. They should also contain a statement of the relevant licensable activities or relevant qualifying club activities that it is proposed will be carried on at the premises, or in the case of an application to vary a premises licence or a club premises certificate the notices shall briefly describe the proposed variation.

- 8.81 It is the responsibility of the applicant for putting the notice up, however licensing authorities should consider where the signs should be placed and advise the applicant where appropriate, to ensure people will see them, in particular if an application is likely to be of interest to the public. As prescribed in regulations, licensing authorities must also place a notice on their website outlining key details of the application as set out in regulations, including:
- the name of the applicant or club;
  - the postal address of the premises or club premises;
  - the postal address and, where applicable, the internet address where the relevant licensing authority's register is kept and where and when the record of the application may be inspected;
  - the date by which representations from responsible authorities or other persons should be received and how these representations should be made; and
  - that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.
- 8.82 The summary of the application should set out matters such as the proposed licensable activities and the proposed hours of opening and should be clearly displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.
- 8.83 Licensing authorities in Wales should consider encouraging applicants to provide details in the alternative language (Welsh or English) to that of the main advertisement itself where the application may be viewed. Therefore, if an applicant publishes a notice in English they should be encouraged to provide a statement in Welsh as to where the application may be viewed, and vice versa. This would allow the reader of the notice to make enquiries to the licensing authority and find out the nature of the application.
- 8.84 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.85 In the case of applications for premises licences involving internet or mail order sales, notices should be conspicuously displayed at the place where the alcohol is appropriated to the contract.
- 8.86 A vessel which is not permanently moored or berthed is treated as if it were a premises situated in a place where it is usually moored or berthed. The newspaper advertisement notice for such a vessel would need to be in relation to this place (where it is usually moored or berthed) and there is no provision requiring such advertising in other areas, for instance, if the vessel journeys through other licensing authority areas.
- 8.87 Arrangements should be put in place by the licensing authority for other parties to view a record of the application in the licensing register as described in Schedule 3 to the 2003 Act. Charges made for copies of the register should not exceed the cost of preparing such copies. Licensing authorities may wish to conduct random and unannounced visits to premises to confirm that notices have been clearly displayed and include relevant and accurate information.

## Applications to change the designated premises supervisors

8.88 Chapter 4 covers designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Chapter 4 covers applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence.

## Provisional statements

8.89 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.

8.90 The 2003 Act does not define the words “otherwise altered”, but the alteration must relate to the purpose of being used for one or more licensable activities.

8.91 Any person falling within section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. This would be possible where clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule including details of:

- the activities to take place there;
- the time at which such activities will take place;
- the proposed hours of opening;
- where the applicant wishes the licence to have effect for a limited period, that period;
- the steps to be taken to promote the licensing objectives; and
- where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify.

8.92 In such cases, the licensing authority would include in the licence the date upon which it would come into effect. A provisional statement will normally only be required when the information described above is not available.

8.93 The 2003 Act therefore provides for a person, if an individual aged 18 or over, who has an interest in the premises to apply for a “provisional statement”. This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority will accept representations. “Person” in this context includes a business.

8.94 When a hearing is held, the licensing authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a premises licence was sought for those premises, it would consider it appropriate for the promotion of the licensing objectives to:

- attach conditions to the licence;
- rule out any of the licensable activities applied for;
- refuse to specify the person nominated as premises supervisor; or

- reject the application.

It will then issue the applicant with a provisional statement setting out the details of that decision together with its reasons.

- 8.95 The licensing authority must copy the provisional statement to each person who made relevant representations, and the chief officer of police for the area in which the premises is situated. The licensing authority should give full and comprehensive reasons for its decision. This is important in anticipation of an appeal by any aggrieved party.
- 8.96 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded in certain circumstances. These are where:
- the application for a licence is in the same form as the licence described in the provisional statement;
  - the work in the schedule of works has been satisfactorily completed;
  - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
  - there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.
- 8.97 Any decision of the licensing authority on an application for a provisional statement will not relieve an applicant of the need to apply for planning permission, building control approval of the building work, or in some cases both planning permission and building control.
- 8.98 A provisional statement may not be sought or given for a vessel, a vehicle or a moveable structure (see section 189 of the 2003 Act).

## **Transfers of premises licences**

- 8.99 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.
- 8.100 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office

(Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

- 8.101 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.
- 8.102 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

## **Interim authorities**

- 8.103 The 2003 Act provides special arrangements for the continuation of permissions under a premises licence when the holder of a licence dies suddenly, becomes bankrupt, mentally incapable or ceases to be entitled to work in the UK. In the normal course of events, the licence would lapse in such circumstances. However, there may also be some time before, for example, the deceased person's estate can be dealt with or an administrative receiver appointed. This could have a damaging effect on those with interests in the premises, such as an owner, lessor or employees working at the premises in question; and could bring unnecessary disruption to customers' plans. The 2003 Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.
- 8.104 These circumstances arise only where a premises licence has lapsed owing to the death, incapacity or insolvency of the holder or where the holder ceases to be entitled to work in the UK. In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 consecutive days beginning the day after the licence lapsed. Where applications are made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. If an application is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the notice is given.
- 8.105 An interim notice may only be given either by a person with a prescribed interest in the premises as set out in the regulations made under the 2003 Act (which may be viewed on [www.legislation.gov.uk](http://www.legislation.gov.uk), the Government's legislation website); or by a person connected to the former holder of the licence (normally a personal representative of the former holder; or a person with power of attorney; or where someone has become

insolvent, that person's insolvency practitioner). The person giving the interim authority notice must be entitled to work in the UK.

- 8.106 The effect of giving the notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence and thereby allow licensable activities to continue to take place pending a formal application for transfer. The maximum period for which an interim authority notice may have effect is three months.
- 8.107 The interim authority notice ceases to have effect unless, by the end of the initial period of 28 consecutive days, a copy of the notice has been given to the chief officer of police and the Home Office (Immigration Enforcement). Within two working days of receiving the copy, and if satisfied that in the exceptional circumstances of the case failure to cancel the interim authority would undermine the crime prevention objective, the police may give a notice to that effect to the licensing authority. Similarly, the Home Office (Immigration Enforcement) may give a notice to the licensing authority if satisfied that the exceptional circumstances of the case are such that failure to cancel the interim authority would undermine the prevention of illegal working in licensed premises. In such circumstances, the licensing authority must hold a hearing to consider the objection notice and cancel the interim authority notice if it decides that it is appropriate to do so for the promotion of the crime prevention objective.
- 8.108 Licensing authorities should be alert to the need to consider the objection quickly. Under section 50 of the 2003 Act, where the premises licence lapses (because of death, incapacity or insolvency of the holder or because the holder is no longer entitled to work in the UK) or by its surrender, but no interim authority notice has effect, a person who may apply for the grant of a premises licence under section 16(1) may apply within 28 consecutive days of the lapse for the transfer of the licence to them with immediate effect pending the determination of the application. This will result in the licence being reinstated from the point at which the transfer application was received by the licensing authority. Where the application is made in writing, the person applying for the transfer must copy their application to the chief officer of police and the Home Office (Immigration Enforcement). If the application is made electronically the licensing authority must copy the application to the police and the Home Office (Immigration Enforcement).

## **Right of freeholders etc to be notified of licensing matters**

- 8.109 A person (which will include a business or company) with a property interest in any premises situated in the licensing authority's area may give notice of their interest to the authority using a prescribed form and on payment of the relevant fee. The application may be made in writing or electronically via GOV.UK or the licensing authority's own facility, in which case the guidance at paragraphs 8.21 to 8.28 applies. Details of fees and forms are available on the GOV.UK website. It is entirely at the discretion of such persons whether they choose to register or not. It is not a legal requirement. Those who may take advantage of this arrangement include the freeholder or leaseholder, a legal mortgagee in respect of the premises, a person in occupation of the premises or any other person prescribed by the Secretary of State.
- 8.110 The notice will have effect for 12 months but a new notice can be given every year. While the notice has effect, if any change relating to the premises concerned has been made to the licensing register (which the licensing authority has a duty to keep under



section 8 of the 2003 Act), the licensing authority must notify the person who registered an interest of the matter to which the change relates. The person will also be notified of their right under section 8 to request a copy of the information contained in any entry in the register. In cases relating to interim authority notices (see above), it is important that such communications are dealt with promptly.

## 9. Determining applications

### General

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

### Where no representations are made

- 9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

### Where representations are made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

### Relevant, vexatious and frivolous representations

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to

the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

## **The role of responsible authorities**

- 9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area<sup>5</sup>. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **Licensing authorities acting as responsible authorities**

- 9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing

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<sup>5</sup> Police and Crime Commissioners are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police remains the named responsible authority under the 2003 Act.

authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.

- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.
- 9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

## **Health bodies acting as responsible authorities**

- 9.20 Where a local authority's Director of Public Health in England (DPH)<sup>6</sup> or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may

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<sup>6</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

## Home Office Immigration Enforcement acting as a responsible authority

- 9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

## Disclosure of personal details of persons making representations

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

## Hearings

- 9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.
- 9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:



- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

## **Determining actions that are appropriate for the promotion of the licensing objectives**

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

### **Considering cases where licensing and planning applications are made simultaneously**

- 9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

# 10. Conditions attached to premises licences and club premises certificates

## General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

## Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

## Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

## Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

## Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code,

the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

## **Hours of trading**

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

## **The performance of plays**

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play<sup>7</sup> which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

## **Censorship**

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

## **Major festivals and carnivals**

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations

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<sup>7</sup> See chapter 15 for when a performance of a play is licensable.

within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.<sup>8</sup> This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.<sup>9</sup> Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

## **Fixed prices**

- 10.21 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions including where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sale of alcohol below the permitted price, as defined in paragraph 10.56.
- 10.22 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

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<sup>8</sup> No licence is required for any entertainment provided by or on behalf of a local authority, see paragraphs 15.16-15.19

<sup>9</sup> The register of public spaces: <https://www.gov.uk/government/publications/licensed-spaces-register>

## Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
  - an appropriate ratio of tables and chairs to customers based on the capacity; and
  - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

## Mandatory conditions in relation to the supply of alcohol

- 10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

### Designated premises supervisor

- 10.26 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.27 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

## Authorisation by personal licence holders

- 10.29 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.30 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.31 “Authorisation” does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.32 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
  - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
  - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.33 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.34 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.35 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.



## Arrangements for the mandatory licence conditions

- 10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.37 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex 1 of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.38 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

## Irresponsible promotions

- 10.39 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

## Drinking games

- 10.40 Drinking games which require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise, are prohibited. For example, this may include organised ‘drink downing’ competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit ‘happy hours’ as long as these are not designed to encourage individuals to drink excessively or rapidly.

## Large quantities of alcohol for free or a fixed price

10.41 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or “all you can drink for £10”. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

## Prizes and rewards

10.42 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, “Buy one and get two free” and “Buy one cocktail and get a second cocktail for 25p”. This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

## Posters and flyers

10.43 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

## Dispensing alcohol directly into the mouth

10.44 The responsible person (see paragraph 10.39) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the ‘dentist’s chair’ where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers’ mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

## Free potable water

10.45 The responsible person (see paragraph 10.39) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

## Age verification

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

## Smaller measures

- 10.51 The responsible person (see paragraph 10.39) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
  - Gin, rum, vodka or whisky: 25ml or 35ml
  - Still wine in a glass: 125ml

- 10.52 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.53 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.54 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

### **Ban on sales of alcohol below the permitted price**

- 10.55 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 10.56 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.57 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.58 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.

### **Exhibition of films**

- 10.59 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.60 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the

definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to ‘any film’, it is therefore applicable to the exhibition of adverts.

## Door supervision

- 10.61 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 (“the 2001 Act”), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority (“the SIA”) under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.62 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA’s Approved Contractor Scheme (section 15).
- 10.63 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.
- 10.64 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:
- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
  - casinos or bingo halls licensed under the Gambling Act 2005;
  - premises where a club certificate is in force when activities are being carried on under the authority of that certificate.
- See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.
- 10.65 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.
- 10.66 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition

should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)