



**NEWARK &  
SHERWOOD**  
DISTRICT COUNCIL

*Castle House  
Great North Road  
Newark  
NG24 1BY*

*Tel: 01636 650000*

[www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

**Members of the Committee:**

Councillor Mrs B Brooks (Reserve)  
Councillor Mrs S Michael

Councillor P Harris  
Councillor Mrs Y Woodhead

## **AGENDA**

**MEETING:      Licensing Hearing**

**DATE:            Tuesday, 5 January 2021 at 10.00 am**

**VENUE:         Broadcast from the Civic Suite, 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 the  
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 and 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

5 JANUARY 2021

### APPLICATION FOR A PREMISES LICENCE

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

1.1 For Members to consider an application for a premise licence for The 616, Wellow, NG22 0EJ.

#### **2.0 Introduction**

2.1 The application for a new premises licence has been submitted by Forest Events Ltd.

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

<b>Activity</b>	<b>Proposed timings</b>
Live Music (Indoors)	Monday to Saturday 23:00 to 02:00 the following day Sunday 23:00 to 24:00
Recorded Music (Indoors)	Monday to Saturday 23:00 to 02:00 the following day Sunday 23:00 to 24:00
Late night refreshment (Indoors)	Daily 23:00 to 02:00 the following day
Supply of Alcohol (Both on/off sales)	Daily 07:00 to 02:00 the following day

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

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

3.1 The premise subject to this application is The 616, Wellow, NG22 0EJ

3.2 Plans and photographs showing the site in context of its surroundings are shown as **Appendix 2** to this report. A number of representations make reference to means of escape on the cellar plan, page 50 shows an additional cellar plan showing means of escape.

#### **4.0 Licensing History**

4.1 These premises have not held a licence previously.

#### **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:

- Land to rear of Chapel Farm, Wellow (licence number 2131)
- Land to rear of Chapel Farm, Wellow (licence number 2230)
- The Maypole at Wellow, Newark Road, Wellow (licence number 533)

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

Premise name	Licensing Hours
Land to rear of Chapel Farm, Wellow (licence 2131)	<p>Live &amp; Recorded music:            Friday 17:00 to 23:30            Saturday 11:00 to 23:30            Sunday 11:00 to 22:00            Alcohol:            Friday 11:00 to 24:00            Saturday 11:00 to 02:00            Sunday 11:00 to 22:30            Late night refreshment:            Friday 23:00 to 02:00            Saturday 23:00 to 02:00            Opening hours: The event will take place on 3 days (Friday, Saturday, Sunday) in July annually (as notified to the licensing authority no later than 28 days prior to the event taking place)</p>
Land to rear of Chapel Farm, Wellow (licence 2230)	<p>Regulated entertainment (Performance of plays, Live music, Recorded music, Performance of dance)            Monday to Sunday 17:00 to 23:30            Late night refreshment – Monday to Sunday 23:00 to 00:00            Supply of alcohol – Monday to Sunday 16:00 to 00:00            Opening hours: 16:00 to 00:00, 1 day per month (Monday to Sunday) up to 4 times per calendar year in June, July, August or September.</p>
The Maypole, Newark Road, Wellow	<p><u>Standard Times</u>            Regulated entertainment (films, indoor sporting events, live music, recorded music, performances of dance, making music)            11:30 – 23:00 Monday to Thursday            11:30 – 23:30 Friday to Saturday            12:00 – 22:30 Sunday            Late night refreshment:            23:00 – 23:30 Friday and Saturday            Alcohol may be sold or supplied:            11:30 – 23:00 Monday to Thursday            11:30 – 23:30 Friday to Saturday            12:00 – 22:30 Sunday  <u>Non Standard Times</u>            Regulated entertainment:            Friday, Saturday &amp; Sunday prior to Bank Holiday            Monday 11:30 – 00:00            Bank Holiday Monday 11:30 – 00:00            24<sup>th</sup> December 11:30 – 00:00            26<sup>th</sup> December 11:30 – 00:00</p>

	<p>31<sup>st</sup> December 11:30 to end of permitted hours on 1<sup>st</sup> January</p> <p>Late night refreshment: Friday, Saturday &amp; Sunday prior to Bank Holiday Monday 23:00 – 00:00 Bank Holiday Monday 23:00 – 00:00</p> <p>24<sup>th</sup> December 23:00 – 00:00 26<sup>th</sup> December 23:00 – 00:00 31<sup>st</sup> December 23:00 to end of permitted hours on 1<sup>st</sup> January</p> <p>Alcohol may be sold or supplied: Friday, Saturday &amp; Sunday prior to Bank Holiday Monday 11:30 – 00:00 Bank Holiday Monday 11:30 – 00:00</p> <p>24<sup>th</sup> December 11:30 – 00:00 26<sup>th</sup> December 11:30 – 00:00 31<sup>st</sup> December 11:30 to end of permitted hours on 1<sup>st</sup> January</p>
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## 6.0 Reason for Hearing

### 6.1 Representations have been received from:

- Planning, NSDC, Castle House, Great North Road, Newark, NG24 1BY
- Andrew Baugh, Whitecroft, Newark Road, Wellow, NG22 0EA
- Anonymous Rep 1
- Anonymous Rep 2
- Anonymous Rep 3
- Anonymous Rep 4
- Bronwen Lester
- Chris Barson
- County Councillor John Peck
- Erica Hutson
- J W Parker & Sons
- Jennifer and Richard Baugh, Woodside Farm, Wellow, NG22 0EJ
- Keith and Margaret Hopkinson, The Old Smithy, Newark Road, Wellow, NG22 0EJ
- Michael Kheng on behalf of Jenny Hubbard, Wellow Hall Cottage, Wellow, NG22 0EA
- Mr & Mrs Jackson, Shadowlawn, Maypole Green, NG22 0FE
- Mr & Mrs Lomax
- Mr & Mrs Sharpe, Barn 4, Park Farm, Wellow, NG22 0EJ
- Mr & Mrs Staite
- M J Sugden, The Old Barn, Newark Road, Wellow, NG22 0EA
- Pippa Slater
- Wellow Parish Council
- Richard Atkinson
- Salianne Collier

A copy of their representations are attached as **Appendix 3**. Please note, that we have highlighted the points in yellow which are relevant to the licensing objectives.

6.2 The licensing authority have been notified that Michael Kheng of Kurnia Consultants Ltd is appointed agent for:

- Mrs Jenny Hubbard
- Mr Keith Hopkinson and Mrs Margaret Hopkinson
- Mrs Salianne Collier
- Anonymous 4

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 public nuisance
- Public safety
- The prevention of crime and disorder

6.4 Further information was requested by the local authority and can be found in **Appendix 4**.

6.5 No agreement has been reached between the applicant and the objectors.

## **7.0 Responsible Authorities**

7.1 Nottinghamshire Police made the following comments regarding this application:  
*Nottinghamshire Police has received an application for a premise licence to be granted at 616, Wellow, Newark. I have read through the application form and in particular the operating schedule. I can confirm that I have no objections to the application and that I'm satisfied that the conditions written within the application under the title of 'Summing up of all precautions and other helpful information' will allow the premises to operate with a granted licence whilst upholding the four licensing objectives.*

7.2 Agreement on certain conditions has been reached with Environmental Health for the conditions to be included in the licence. These are shown in paragraph 8.2 below.

7.3 A number of representations make reference to the sound level test report included in the application by the applicant being inadequate. The licensing authority has sought advice from Environmental Health, who has confirmed that the person carrying out report is an experienced sound engineer and they are happy with contents of the report.

7.4 The Planning Authority are the only responsible authority who have made representation regarding this application.

7.5 A number of representations make reference to the permitted capacity of the venue, paragraph 2.13 of the S182 Statutory Guidance states: *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 Act1, 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 the premises should be.*

7.6 No representations or comments have been received from the remaining Responsible Authorities.

## **8.0 Conditions**

### **8.1 Annex 1 Conditions**

The following mandatory conditions will be applied to the licence:

#### **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

### **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.

### **8.2 Annex 2 Conditions**

Applicant and Environmental Health Agreed Conditions

1. Live and recorded music will cease to be played in the Banqueting Hall (marked as bar area on plan) at 23:00.

### **8.3 The following conditions will be applied to the licence from the applicants operating schedule:**

- 1 Signage shall be displayed advising customers to be respectful to residents and to leave the area in a quiet and orderly manner.
- 2 All doors and windows shall remain closed when regulated entertainment is taking place, except for when actually being used for access and egress and in the event of an emergency.
- 3 A bound and sequentially paginated incident/accident book or electronic record shall be kept to record all instances of disorder, damage to property and personal injury at the premises. This book shall be made available for inspection and copying by the Police or any other authorised person upon request and all such books shall be retained at the premises for at least 12 months.
- 4 All bottles and glasses shall be removed from the public areas as soon as they are either finished with, or empty.
- 5 A bound and sequentially paginated refusals book or electronic record shall be kept at the premises to record all instances where admission or service is refused.

Such records shall show:

- The basis for the refusal;
- The person making the decision to refuse; and
- The date and time of the refusal.

Such records shall be retained at the Premises for at least 12 months, and shall be made available for inspection and copying by the Police or any other authorised person upon request.

- 6 All children will be accompanied by an adult, who will be responsible for them.
- 7 All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:
  - Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
  - Refresher/reinforcement training at intervals of no more than 12 months.

Training records will be retained at the premises for a minimum period of 18 months and available for inspection upon request by a Police Officer and/or authorised person

- 8 A CCTV system with recording equipment shall be installed and recorded on the plan appended to the licence. The system shall be installed prior to the premises carrying out licensable activities and maintained in accordance with the system.

All recordings used in conjunction with CCTV shall:

- be of evidential quality
- Cover the point of sale, and entrance and exit
- 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 the request of Police officers, or other authorised officers.
- copies of recordings shall be provided in a format which can be viewed on readily available equipment without the need for specialist software.

- 9 A Challenge 25 scheme 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 photo identification. (e.g. passport, driving licence, Military ID or PASS accredited card).
- 10 Challenge 25 notices shall be displayed in prominent positions throughout the premises
- 11 The premises licence holder shall risk assess each event and decide the requirement for door supervisors at the premises, and/or employ such door supervisors at such times and in such numbers as deemed necessary by the risk assessment, and/or at any other times upon agreement with the Police. The written risk assessment shall be made available on request to the Police and/or Licensing.

## **9.0 Applicable Policies and Guidance**

- 9.1 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.

9.2 Sections 6, 7 and 8 of the Statement of Licensing Policy are considered particularly relevant to this application. This is attached as **Appendix 5**

9.3 When considering this application for a new licence the panel may wish to consider Chapters 2, 8, 9, 10 and 16 of the Revised Statutory Guidance issued under section 182 of the Licensing Act 2003 - April 2018. This is attached as **Appendix 6**.

## **10.0 RECOMMENDATION**

**That Members consider the premise licence application and the representations made for The 616, Wellow, NG22 0EJ and take the steps as it considers appropriate for the promotion of the licensing objectives.**

**The steps available on determination of a new premise licence application are:**

- **Grant the licence subject to:**
  - i) **such conditions as are consistent with the operating schedule modified to such extent as the authority considers appropriate for the promotion of the licensing objectives; and**
  - ii) **any condition which must, under section 19, 20 and 21, be included in the licence (mandatory conditions)**
- **To exclude from the scope of the licence any of the licensable activities to which the application relates**
- **To refuse to specify a person in the licence as a premises supervisor**
- **To reject the application**

List of Appendices

Appendix 1 – Application Form  
Appendix 2 – Plan of Site and Photographs  
Appendix 3 – Representations Received  
Appendix 4 – Further Information Received  
Appendix 5 – NSDC Statement of Licensing Policy  
Appendix 6 – Statutory Guidance

## LICENSING ACT 2003



### NOTICE OF NEW PREMISES LICENCE APPLICATION RECEIVED BY NEWARK AND SHERWOOD DISTRICT COUNCIL

Name of applicant	<i>Forest Events Ltd</i>
Postal address of premise or club	<i>The 616 Wellow Newark NG22 0EJ</i>

<p>The proposed use is:</p> <p><i>Briefly describe the proposed use:</i></p> <p>Live and Recorded Music (indoors) – Monday to Saturday 23:00 to 02:00 the following day, Sunday 23:00 to 24:00</p> <p>Late Night Refreshment – Daily 23:00 to 02:00 the following day</p> <p>Supply of Alcohol (on and off sales) – Daily 07:00 to 02:00</p> <p>Opening Hours – Daily 07:00 to 02:00</p>
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Any representations must be made in writing to: The Licensing and Enforcement Section, Newark & Sherwood District Council, Castle House, Great North Road, Newark on Trent, NG24 1BY or e-mailed to: [request@nsdc.info](mailto:request@nsdc.info)

Representations must be received no later than **4<sup>th</sup> December 2020**

The application record and register may be viewed during normal office hours at the above address.

It is an offence under section 158 of the Licensing Act 2003 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 is up to level 5 on the standard scale (£5,000)

**Application for a premises licence to be granted 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** FOREST EVENTS LTD

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description <b>The 616, Wellow, Newark, NG22 0EJ</b> (please see attached map marked 'A')			
<b>Post town</b>	Newark	<b>Postcode</b>	NG22 0EJ
Telephone number at premises (if any)		<b>07368 580784</b>	
Non-domestic rateable value of premises		<b>£0.00</b>	

**Part 2 - Applicant details**

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
  - i as a limited company/limited liability partnership  please complete section (B)
  - ii as a partnership (other than limited liability)  please complete section (B)
  - iii as an unincorporated association or  please complete section (B)
  - iv other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)

- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - statutory function or
  - a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes			
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					



**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>			I am 18 years old or over <input type="checkbox"/> Please tick yes		
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

Name FOREST EVENTS LTD
Address BARN ONE, CHAPEL FARM (formerly Park Farm), WELLOW, NEWARK, NOTTINGHAMSHIRE, NG22 0EJ
Registered number (where applicable) 11491447
Description of applicant (for example, partnership, company, unincorporated association etc.) LIMITED COMPANY

Telephone number (if any)
E-mail address (optional) INFO@THE616.CO.UK

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
0	9	12 20 20

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

LIVE MUSIC 23:00 – 02:00 RECORDED MUSIC 23:00 – 02:00 LATE NIGHT REFRESHMANTS 23:00 – 02:00 SUPPLY OF ALCOHOL 07:00 – 02:00 **DAILY**

N.B. Alcohol will be sold from the bar area, but Live music can only be played in the Cellar. Recorded music will only be in the cellar after 23:00. Late night refreshments will only be served in the bar area

THE APPLICATION HAS BEEN MADE TO ALLOW US AS RESPONSIBLE PEOPLE TO MANAGE AND IMPLEMENT THE 4 LICENSING OBJECTIVES. DETACHED, PURPOSE BUILT HOLIDAY ACCOMMODATION VENUE. SINGLE STOREY WITH FIXED BAR AND CELLAR FOR LICENCED ACTIVITIES. SET 600mtrs FROM THE MAIN NEWARK ROAD. BUILT FOR OVERNIGHT ACCOMMODATION FOR X 26 ADULTS AND COMMUNAL EATING/DRINKING/LOUNGE and HOT TUB AREA. ADDITIONAL GUESTS (OTHER THAN OVERNIGHT STAYS) MAY ATTEND FOR EVENTS SUCH AS MUSIC CONCERTS or THE FESTIVAL or OTHER CELEBRATIONS, SUCH AS A WEDDING or ANNIVERSARY, or **BY INVITE ONLY**. THE VENUE WILL NOT ALLOW ANY **WALK-IN GUESTS** TO THE PREMISES AND PATRONS MUST EITHER BE STAYING OVERNIGHT OR PART OF THE EVENT AS INVITED GUESTS.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N/A
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What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)

- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

**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**

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	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 4)		
Tue					
Wed			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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></b> (please read guidance note 6)		
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Wed			<b>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</b> (please read guidance note 6)		
Thur					
Fri					
Sat					
Sun					

**C**

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Tue			
Wed			
Thur			<b><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></b> (please read guidance note 6)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	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 4)		
Tue					
Wed			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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></b> (please read guidance note 6)		
Sat					
Sun					

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>																																									
				Outdoors	<input type="checkbox"/>																																									
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			<b><u>Please give further details here</u></b> (please read guidance note 4)																																											
			<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)																																											
			<b><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></b> (please read guidance note 6)																																											



**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon	2300	2400			
Tue	0001	0200			
	2300	2400			
Wed	0001	0200	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
	2300	2400			
Thur	0001	0200			
	2300	2400			
Fri	0001	0200	<b><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></b> (please read guidance note 6)		
	2300	2400			
Sat	0001	0200			
	2300	2400			
Sun	0001	0200			
	2300	2400			

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 5)		
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 6)		
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 7)			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 3)	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 4)		
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 5)		
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 6)		
Sun					

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	23:00	02:00	<b><u>Please give further details here</u></b> (please read guidance note 4) Late night refreshments only available for overnight guests and or any guests attending an event on site on an invited basis.		
Tue	23:00	02:00			
Wed	23:00	02:00	<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 5)		
Thur	23:00	02:00			
Fri	23:00	02:00	<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 6)		
Sat	23:00	02:00			
Sun	23:00	02:00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	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 5)		
Mon	0700	0200			
Tue	0700	0200			
Wed	0700	0200			
Thur	0700	0200			
Fri	0700	0200			
Sat	0700	0200			
Sun	0700	0200			

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):**

<b>Name</b> MORAG GAIR KETTLES	
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b> 002118	
<b>Issuing licensing authority (if known)</b> NEWARK & SHERWOOD DISTRICT COUNCIL	

**K**

**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** (please read guidance note 9).

NONE There will be no activities allowed that could give rise to concerns in respect to young children and vulnerable adults.

**L**

<p><b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)</p>			<p><b>State any seasonal variations</b> (please read guidance note 5) NOT OPEN TO THE PUBLIC. MUST BE GUESTS STAYING OVERNIGHT OR INVITED TO A SPECIFIC PRE-BOOKED EVENT TAKING PLACE AT THE VENUE.</p>
Day	Start	Finish	
Mon	0700	0200	
Tue	0700	0200	
Wed	0700	0200	
Thur	0700	0200	
Fri	0700	0200	
Sat	0700	0200	
Sun	0700	0200	
			<p><b><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></b> (please read guidance note 6)</p>

## M

Describe the steps you intend to take to promote the four licensing objectives:

### **a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

The Licensee shall ensure there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder. The Licensee shall ensure that all staff will undertake training in their responsibilities in relation to the sale of alcohol, particularly with regard to drunkenness and underage persons. Records will be kept of training and refresher training. The owners to work closely with all relevant local and national bodies to ensure they continue to be compliant with licencing legislation.

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

Any incidents of a criminal nature that may occur on the premises will be reported to the Police. The Licensee will install comprehensive CCTV coverage at the premises. Cameras will be sited to observe the entrance and exit doors both inside and outside. Cameras will view till areas. All cameras to provide a linked record of the date, time and place of any image. Have the recording device located in a secure area or locked cabinet. Have signage displayed in the customer area to advise that CCTV is in operation. Digital images will be kept for a minimum of 31 days. Registered door supervisors will be used when required. Clear signage will be used regarding Challenge 25 and zero tolerance given to illegal substances. Consumption of alcohol will be restricted to the areas identified on the plan attached (marked 'A').

### **c) Public safety**

The health, safety and welfare of all those attending the venue or affected by it, features highly on the owner's priorities. The venue is a new-build and complies with current building regulations and has an integrated CCTV system. It is well lit and signed and will be manned 24 hours a day. Appropriate fire safety procedures are in place along with appropriate emergency lighting. All emergency exits will always be kept free from obstruction and all equipment maintained/inspected regularly. Access for emergency vehicles is kept clear and free from obstruction. The licence holder will ensure that all staff receive appropriate training about emergency and general safety precautions and procedures. All bottles, glasses and rubbish will be removed on a regular and frequent basis. The licensee will ensure that the maximum occupancy of the licensed premises is restricted at any one time to 300. Door supervisors may be used to ensure the capacity limit is enforced.

### **d) The prevention of public nuisance**

All guests will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours. will make sure that doors and windows are kept closed (except for ingress and egress) to reduce noise nuisance from the premises. I will make sure that the placing of bottles into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties. I will ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented. Ensure that receptacles for waste are emptied regularly to minimise nuisance smells. There will be no flashing or particularly bright lights on or outside the licensed premises do not cause a nuisance to nearby properties, whilst balancing the need for appropriate and safe exterior lighting.

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

The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as proof of age cards, the Connexions Card and Citizen Card, photographic driving licence or passport, an official identity card issued by HM Forces or by an EU country, bearing the photograph and date of birth of bearer. All staff will be trained regularly for underage sales prevention. A register of refused sales shall be kept and maintained on the premises. As the premises is to be used for private events including overnight accommodation, all children will be accompanied by an adult who will always be responsible for them.

## **Summing up of all precautions and other helpful information.**

### **Staff training with records**

All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
- Refresher/reinforcement training at intervals of no more than 12 months.

Training records will be retained at the premises for a minimum period of 18 months and available for inspection upon request by a Police Officer and/or authorised person

### **CCTV**

A CCTV system with recording equipment has been installed and recorded on the plan appended to the licence.

All recordings used in conjunction with CCTV are/do:

- of evidential quality
- Cover the point of sale, and entrance and exit
- 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 the request of Police officers, or other authorised officers.
- Copies of recordings shall be provided in a format which can be viewed on readily available equipment without the need for specialist software.

### **Challenge 25**

A Challenge 21/25 scheme shall operate at the premises. Any person who appears to be under 21/25 years of age shall not be allowed to purchase alcohol unless they produce an acceptable form of photo identification. (e.g. passport, driving licence, Military ID or PASS accredited card).

Challenge 21/25 notices shall be displayed in prominent positions throughout the premises

### **SIA Door staff when required**

Each event will have a risk assessment. And a decision will be taken as to the need for SIA. Part of the risk assessment will be the decision as to whether there is a need to inform NSDC and or the police of the event. However, if the risk assessment decision is to employ SIA and inform the Police, and we have concerns, we will make the decision not to allow the events to go ahead.



**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. x
- I have enclosed the plan of the premises. x
- I have sent copies of this application and the plan to responsible authorities and others where applicable. x
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. x
- I understand that I must now advertise my application. x
- I understand that if I do not comply with the above requirements my application will be rejected. x
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

**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.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<b>Declaration</b>	<ul style="list-style-type: none"><li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li><li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing</li></ul>
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	work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	05/11/2020
Capacity	Director

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

## Notes for Guidance

1. 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 for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. 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.
3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  4. For example the 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.
  5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  7. 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.
  8. 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'.
  9. 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.
  10. Please list here steps you will take to promote all four licensing objectives together.
  11. The application form must be signed.
  12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
  13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
  14. This is the address which we shall use to correspond with you about this application.
- 15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

### **Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the

person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:

- (i) working e.g. employment contract, wage slips, letter from the employer,
- (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
- (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
- (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

#### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.





To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Date: 23/06/2020  
The 616 Venue  
Chapel Farm Wellow  
Newark  
Nottingham  
NG22 0EJ

Bar set within the area marked  
as indoor music area, set on  
ground floor, there is no first floor.  
Bedrooms surrounding court yards

-  BAR AREA
-  Toilets
-  Smoke detectors
-  CCTV






# Cellar

 Toilets

 CCTV





 MUSIC AREA



Date: 23/06/2020  
The 616 Venue  
Chapel Farm Wellow  
Newark  
Nottingham  
NG22 0EJ

N.B. Alarm is a hard wired interconnected  
mixture of heat and smoke detectors in ALL rooms.

Emergency light in all rooms and external.

-  Escape routes
-  Emergency lighting
-  Smoke detectors
-  CCTV



# The 616 Venue – Sound level test report

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## The Venue

The 616 Venue, Chapel Farm, Wellow, NG22 0EJ.

The Venue consists of two potential entertainment halls. These are The Banqueting Hall and the Cellar live music Room.

## Audio System Specification and Design

I have been asked to supply two sound systems that would serve to provide a high-quality sound, while still maintaining noise levels to a minimum.

Several sound systems were tested in both rooms and the requirement of the sound systems were discussed with Ms Kettles & Mr Chapelhow. It was decided that, because the Banqueting Hall only requires sound for low level background music and speeches, a pair of small, self-powered speakers and a single powered bass speaker would be more than adequate. No sound levels were taken of the Banqueting Hall, as it is understood the sound levels would be unlikely to be heard outside, once all the doors and windows had been installed.

The Cellar live music room was then tested. I understand this room may have live acts performing. It was decided that a pair of two-way passive top cabs and once again a single 18 bass bin would work well in this environment.

## The Equipment

Electrovoice 2 X ELX 200 12P Top cabs AND 1 X EKX 18SP bass bin In the Banqueting hall.

Electrovoice 2 X ZX3 Top cabs and 1 X TX118 bass bin. Driven by 2 x TG5 AND 1 X TG 7 DSP controlled power amplifiers.

## Audience Arena & Anticipated Audio Dispersion

A sound level test for the Cellar was carried out using a sine wave generator at three specific frequencies and measurements were taken (in dB A weighted) at (1) The audience position, (2) At the top of the fire exit and (3) At the first bedroom next to the Banqueting Hall.

The ambient noise level at the time of the test was 39. dB

It is also worth pointing out, that none of the rooms had external doors fitted at the time of the test.

**@ 100Hz** SPL reading at 20°C and 60% humidity.

Here we found at 85dB at position (1) the sound level was 57dB at position (2) and 45dB at position (3)

**@ 400Hz** SPL reading at 20°C and 60% humidity.

Here we found at 85dB at position (1) the sound level was 47dB at Position (2) and 39 dB at position (3)

**@8000Hz** SPL reading at 20°C and 60% humidity.

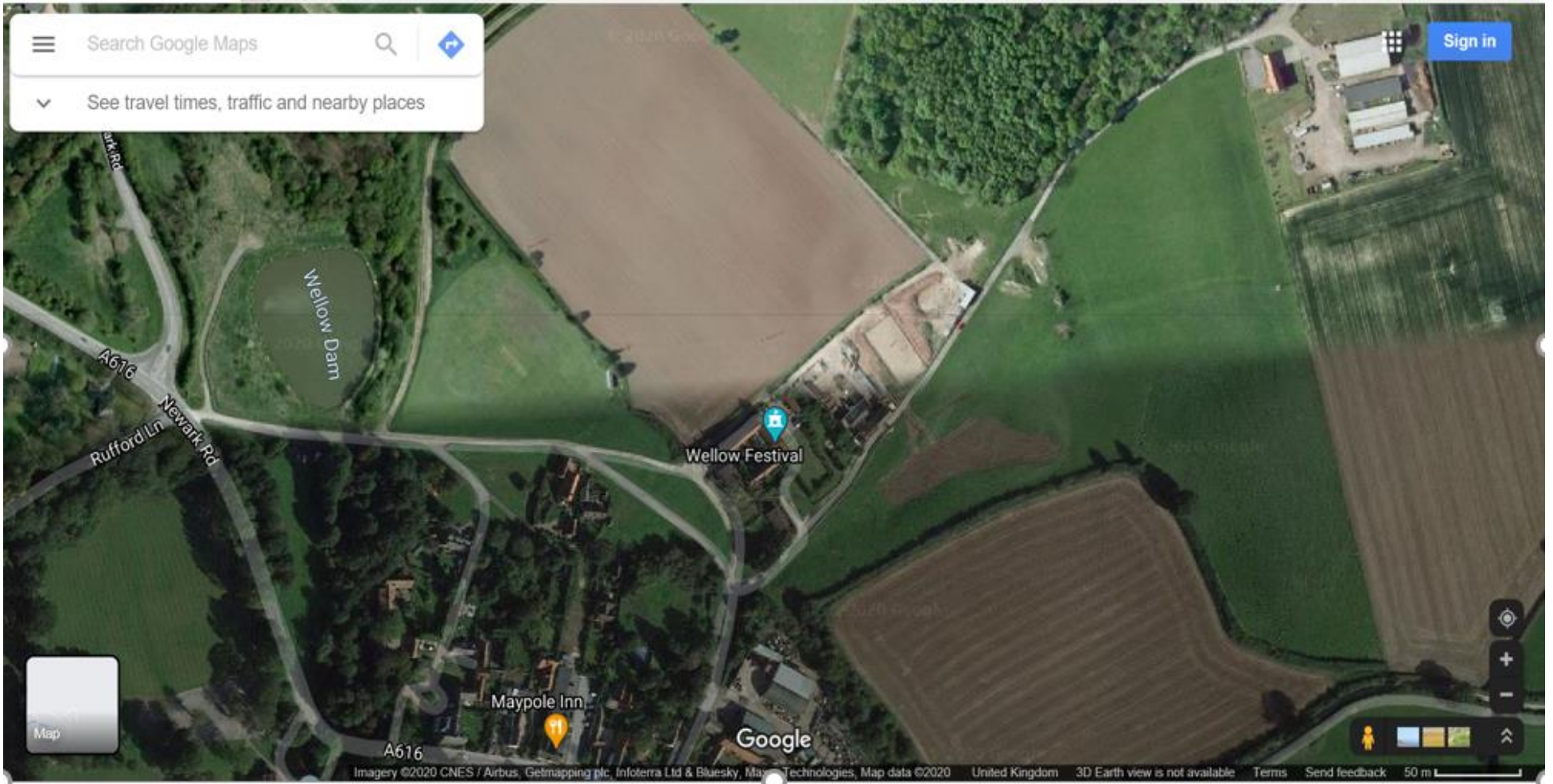
Here we found at 85 dB at position (1) the sound level was 40 dB at position (2) and 39 dB at position (3)

Report produced by  
Wayne Goodband

21/07/2020


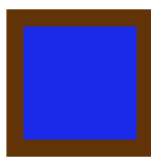




Ariel view of The 616, Wellow NG22 0EJ



Date: 23/06/2020  
The 616 Venue  
Chapel Farm Wellow  
Newark  
Nottingham  
NG22 0EJ

Bar set within the area marked  
as indoor music area, set on  
ground floor, there is no first floor.  
Bedrooms surrounding court yards


-  BAR AREA
-  Toilets
-  Smoke detectors
-  CCTV



# Cellar

 Toilets

 CCTV

 MUSIC AREA









Date: 23/06/2020  
The 616 Venue  
Chapel Farm Wellow  
Newark  
Nottingham  
NG22 0EJ

N.B. Alarm is a hard wired interconnected  
mixture of heat and smoke detectors in ALL rooms.

Emergency light in all rooms and external.

-  Escape routes
-  Emergency lighting
-  Smoke detectors
-  CCTV



























Please see comments below:

Chapel Farm Wellow

The site benefits from planning permission for 13no. holiday units under application ref 16/01638/FUL. The approved plans show a 'communal area' which on the licencing application is shown to include a bar. Should the bar be used for purposes ancillary to the holiday accommodation (serves only the people staying at the accommodation at the time) this would be covered by the current permission. The basement area is not included in the approved plans and a further planning application should be submitted to regularise this. I do have concerns regarding the proposed capacity at 300. Should the intention for the site to be for events of this scale or to be open to the public/additional guests, a change of use application would likely be required. The application would need to show the associated parking area as I do not believe the current provision under 16/01638/FUL would be sufficient for a capacity of 300 people. Please note these comments do not relate to events/uses on the wider site that could potentially be held under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended subject to meeting the relevant conditions and limitations.

Kind regards,

Ellie

Ellie Sillah  
**Planner**  
**Planning Development**

Direct telephone number: 01636 655770

Newark and Sherwood District Council  
Website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk)

Whitecroft  
Newark Road,  
Wellow  
NG22 0EA

Dear Sir

I object to the granting of a premises license at Venue 616, Wellow, NG22 0EJ.

First, there is a Restrictive Covenant with this property against the sale of alcohol.

There is also a Restrictive Covenant against any activity which could be deemed a nuisance to the Baugh family who sold the property to the Chaplehows'.

David Chaplehow signed an agreement through Mansfield Mediation in August 2015 stating he would not allow music to be played after 11.00pm

Even if the buildings can contain the noise, doors open and close as people go in and out releasing the noise. Furthermore, the doors will be left open during hot weather. What effect will this noise have on bats using their echo system during hunting? The adjacent woodland is a SSSI teeming with bats.

The access to the highway is not included in this application, but it is 400m of single track that is unlit. It passes over a basic bridge without sides and Wellow dam, an open pond. This is dangerous for vehicles (some have gone into it over the years). Some revellers are likely to be walking this route having left their cars behind due to drink driving laws. This area will be particularly dangerous in the dark.

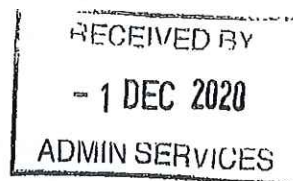
The Toft Holders who manage the common land are embarking on a plan for a permanent flock of sheep to graze the area on an environmental project. People going home in groups under the influence sometimes do silly things to livestock like chasing them and throwing objects at them (I have experienced of these activities).

Where are all these cars going to park? The carpark is full of mountains of soil/rubble.

Yours Faithfully

Andrew Baugh

The Licensing and Enforcement Section  
Newark & Sherwood District Council  
Castle House  
Great North Road  
Newark  
NG24 1BY



The 616 (Chapel Farm) Wellow, Newark  
Premises License (November 2020) Application

27<sup>th</sup> November 2020

Dear NSDC,

Please find attached my objections to the granting of the License application described above.



I have no idea who is responsible for these acts, but nevertheless I do not wish to be identified in connection with this matter, although I hope you will be able to include my thoughts in your deliberations,

Yours Sincerely

Wellow resident and toftholder

Subject; The 616 (Chapel Farm) Wellow Newark.  
Premises License (November 2020) Application.

I would like to record my objections to the granting of the application specified above.

Broadly these fall into the following categories;

1. **Environmental impact;** the site is bordered by common (toft) land and by an SSSI. The toft land includes an ancient fishing dam and an historic dyke. The Lord of the Manor and the Toft holders (holders of grazing rights) are currently engaged in a project to re-establish, in 2021, ethical grazing to the common land. It is difficult to see how this Licensing arrangement could operate without serious detriment to the common land and its reintroduced livestock, and to the SSSI.

2. **Safety;** by its very nature the toft land is rough and unfenced, including the dam and the dyke; the application mentions consumption of alcohol **both on and off the premises**, and any access/egress to and from the 616 (Chapel Farm) on foot or vehicular necessarily crosses toft land. The combination of the landscape as described at 1. above, darkness, and alcohol seems to be a recipe for injury if not worse.

3. **Access;** The holder of the title 'Lord of the Manor' (Challenge Ltd) submitted a cogent objection connected with the recently- rejected application for additional accommodation at the site (Ref; 20/00593FUL); this concerned proposed access from the Rufford end of the commons; there is no reason to suppose that their view has changed in the short interval since then, and I would suggest reference to that submission as part of your deliberations.

This leaves a second access/egress point on Billet Lane off Newark Road. Newark Road is not only a busy main road at all times, it is also the relief road when there are problems (closures for roadworks/accidents) on the A1. At these times - often at night - there is a massive increase in heavy traffic and the access to Billet Lane becomes even more hazardous than at normal times.

4. **Effect on the residents;** There is potential for greatly increased disruption within Wellow by virtue of noise at unsocial hours, increased traffic on an already busy road, and the possibility of overspill parking /unsocial behaviour around the village. The presently-authorized parking of 30 vehicles on the site does not chime with the 300 people referenced in the application, increasing the probability that cars would end up parked either on toft land or around the village (which already has parking issues).

Wellow Resident and toft holder



## The A616 – Licensing application

The application is for a site whose access is by unmade track across common land on which villagers have ancient rights to graze and to which there is public access. The site is already restricted not to commence trading until conditions imposed by the National Planning Inspectorate that would require action by the landowner, the Secretary of State and others are satisfied.



Reasons for my objection: -

### a) Public safety.

- The proposed venue is across an unlit, unmade track over common land that joins the A616 at Rufford Lane End. This junction is already unsafe and the volume of traffic (Up to 300 attendees every day of the week until 2a.m.) will significantly increase the risk of injury or death;
- The unmade track passes close to the unfenced, deep water of Wellow Dam. This presents the risk of intoxicated individuals stumbling into the Dam in the night whilst navigating the unlit and unmade track;
- The licence applied for is for consumption both on and off the premise. Intoxicated people carrying alcohol off-site and wandering the unlit area increases the risk to public safety;
- Wellow Dam is occasionally used by anglers for night-time fishing matches. The number of cars the 300 potential attendees will require presents a risk of accident with pedestrian anglers at the Dam;
- Wellow toftolders have rights to graze animals on the common land across which any access to the site has to pass. The significant increase in people by car and on foot this licence proposes puts at risk the security of the grazing animals and should these escape to the highway a further risk to public safety. The cricket ground next to the track is already grazed and there are plans approved to graze more of the common land using heritage breeds.
- There is a track record at this site of poorly managed and poorly planned events whilst under the same ownership as now. For example, on two occasions a “Russian Event” has in two different years brought gridlock, noise and chaos to the area including blocking the main A616 and making access for emergency vehicles nigh on impossible. No improvement in the management took place between the first and second disasters. There is no confidence in the owners’ ability to prevent recurrence and adding a 7 day licence on and off premises from 7am until 2am would likely magnify the risk to public safety already demonstrated.

### b) Public nuisance

- Greatly increased traffic along the unmade track to the site in question has through erosion by vehicles already led to deterioration of the surface and the loss of ancient grazing on the common land, to which villagers have ancient rights and

which the Council has a duty to uphold and protect,. The increased traffic has also led to clouds of dust enveloping properties near the track and coating gardens and property. The additional 300 people per night requested would make these problems an order of magnitude worse. An unbearable nuisance;

- The number of people foreseen to attend each night (300) represents an additional 50% of the entire population of Wellow. That number of intoxicated people leaving from early breakfast until the early hours of the next day seven days per week will create a substantial public nuisance in a small, quiet village with many elderly and vulnerable residents;
- The licence is to be for the consumption of alcohol both on and off the premises. The public nuisance of intoxicated people carrying drink off-site and wandering around the unlit track to find their way through the village would represent a public nuisance;
- Noise levels from people and traffic entering and leaving the site will cause a public nuisance to residents adjacent to the unmade track used to access the site;
- There is a track record at this site of poorly managed and poorly planned events whilst under the same ownership as now. For example, on two occasions a "Russian Event" has in two different years brought gridlock, noise and chaos to the area including blocking the main A616. No improvement in the management took place between the first and second disasters. There is no confidence in the owners' ability to prevent recurrence and adding a 7 day licence on and off premises from 7am until 2am would likely magnify the nuisance that is already caused.

RECEIVED BY  
- 2 DEC 2020  
ADMIN SERVICES

30<sup>th</sup> November 2020.

Dear Sir/Madam,

With regard to the application for premises licence for The 616, Wellow, Newark, NG22 0EJ, submitted by Forest Events Ltd, I would like to express my objections.

I believe the playing of live or recorded music, late night refreshments and the sale of alcohol until midnight or later, would result in noise for residents of the village, especially if people are allowed

to drink outside. This may lead to people wandering around the village drinking.

For vehicles and people going to and from the site, there is only a narrow track, without pavements or lighting, I feel this may be dangerous.

I am also concerned about the impact on wildlife and farm animals.

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
Yours Faithfully.  
~~\_\_\_\_\_~~

Once again only one notice regarding this application was posted, this was on a pole near the applicants property. On several occasions this notice was interfered with so as it was not visible to the public. Residents living in the main area of the village have been completely unaware of this application and we question whether the advertising of this application is within the confines of legal requirements ( ONE NOTICE )

My husband and I are strongly opposed to a premises licence being granted at the now named The 616.

The proposed licensing hours fall way outside the needs of these holiday lets. The site does not lead itself to the level of activities being proposed. The village of Wellow is only small and is already served by one Public House and one Boutique hotel, the village we believe, is adequately provided for in this direction. The provision of premises with a licence with hours that appear to more in line with those of a Nightclub.....which is most definitely not in the keeping with the beautiful small village of Wellow.

In our estimation it will lead to an unbearable amount of noise and movement created by the constant attendance of the expected partygoers. It is not possible to control noise by merely putting up signs saying, "Please be quiet on leaving" especially when people have been enjoying hours of joviality.

One only has to take stock of the behaviour which occurs in town and city centres.

The whole village will suffer a dramatic change, which we believe will have far reaching adverse implications for years to come.

Pollution to the area is a grave concern extra lighting inside the grounds of these premises, which is situated on rising ground extremely close to Wellow Park Wood a designated SSI site and is home to numerous species of animals, birds and fauna. The car parking area is also adjacent to the wood.

The safety aspect is troublesome, there is NO alternative emergency access or exit to the [site](#). It is a single track in, the same single track out part of which has NO passing places. The track is made up of limestone chippings. If this application were to be granted the impact on the main lane would be appalling with all the extra traffic, leading to be more of a main road and not that of a rural track which is meant for farm vehicles and several homes in the area.

Part of the access leading to the site is very close to a dangerous staggered cross road and is adjacent to Wellow Dam a very large fishing pond this maybe inviting to persons who are leaving full frivolity and no with no inhibitions.

Whatever measures are put in place, it is not possible to safeguard anywhere from crime and disorder. Sometimes an area unwittingly can lend itself for crime to be perpetrated and disorder can never be ruled out.

The environment created by granting a premises licence and any further developments ( holiday lets) will do nothing at all to create or safeguard a good environment. We are of the opinion it will be total abuse of this village..

By reason of the foregoing this application should be refused..

To Whom It May Concern

REFERENCE – LICENSING APPLICATION FOR THE 616 VENUE

I would like to confirm that I support this application. It is the responsible way of managing a venue of this type and it brings money/employment into the local community. Despite what I have been led to believe by the Parish Council, I believe it is a good thing for the future of the village as a whole.

Thank you

Bronwen Lester

To Whom It May Concern

Reference The 616 Licensing Application

I support this application and would like to make it clear that the Parish Council do not represent me or my views. [REDACTED]

Surely it would be better to have a managed venue where licensing objectives can be adhered to.

Thanks

Chris Barson

From County Councillor John Peck (mob: 07748181719)

Re: Licence application, Forest Events Ltd., The 616, Wellow, Newark, NG22 0EJ

I'm writing to object to the above application. I note that the application requests a licence for refreshments and music through to 2am each day. Wellow is a small rural, entirely residential village and as such, I believe it inappropriate to grant a licence to a premises which will potentially keep open until at least 2am in the morning throughout the year. This would presumably attract a number of visitors to the premises, possibly on every evening, with the potential for noise and anti social behaviour causing disturbance to nearby residents as visitors leave the premises. This could extend will beyond the time the 2am end time of the proposed licence. I therefore urge that the application be rejected. I believe this village is an inappropriate setting for a licenced music venue to be open at the hours stated in the application but if the committee is minded to grant a licence, then I would urge that the time stipulated should be considerably earlier than 2am.

Thank you for your consideration.

Regards

John Peck (County Councillor, Sherwood Forest Division)



3 The Roost.  
Manor Farm Rise,  
Eaking Rd.,  
Wellaw  
Notts.  
NG22 0ER  
23.11.20

Licensing & Enforcement Section,  
NSDC Castle House,  
Great North Road,  
Newark on Trent  
Notts. NG 24 1BY.

Objection against the granting of a premise  
licence application in respect of The 616, Wellaw  
Nr Newark Notts. NG22 0EJ

Dear Sir,  
I am writing to object to the application  
and granting of a premise licence for The 616,  
Wellaw. Notts; NG 22 0EJ.

I feel this is incongruous in line with the village  
and surrounding countryside and area. There has already  
been an increased traffic flow in this area but this  
would add further disruption. The influx of extra  
visitors also I fear would disrupt the natural  
feel for the area and the noise would disturb  
households. Already with previous events noise  
could be heard well into the night from a  
distance and should these be on a more frequent  
basis would seriously affect those who had  
worked hard to preserve the nature and  
history of the area.

I know much is said about wildlife but on this occasion I think it is a very valid reason to object to this venue for an entertainment venue with noise / light pollution in addition to the upheaval and change in the landscape.

I hope you will consider the area and residents and object to further events and this application.

Yours sincerely

---

FAO Premises License committee

RE:Objection to the Premises License application at Chapel Farm, Wellow, NG22 0EJ put in by Forest Events Ltd.

Dear NSDC premises license committee,

After reading the premises license application for Chapel Farm, we wish to lodge a strong objection to it and wish you to take the following points into consideration. As was the case with objections submitted for the further development of the park farm/chapel farm/forest events/616 site (with whichever business name this complex development is being made under), we still find the 'passed on appeal' 13 holiday lets 16/01638/FUL or 17/00036/8WEEK a wholly unsuitable newly built development for a conservation village. Be it on the edge of the conservation area or not, it greatly impacts the village, as have the events taken place there in the past. Some of the points below are indeed the same as previous objections to the additional 8 holiday lets applied for in Aug/Sept this year (20/00593/FUL) and here too have to be taken into consideration along with our added concerns **(in bold)** to specifically address this premises license application.

Conservation Area – Although the proposed development itself is just outside the envelope of the conservation area of Wellow, the tracks to it are most certainly within it, and it is these tracks which should supposedly be used by even more traffic to the proposed developments. **More traffic that would be added to by an alcohol license which is clearly being applied for to encourage/advertise for hen and stag parties, get togethers and corporate events, not to mention mini-wedding glastonbury under the Forest Events Ltd banner (please see <http://www.forestevents.co.uk>). The huge number of people (we understand up to 300 people at a time on the premises) this farming track would be expected to carry is not what it is there for, and its historical purpose in the village lost forever.**

Highways – The track which these developments at Chapel Farm plan to use (for the ever-growing number of people living, staying, visiting this once tranquil family farm setting) is not one which was/is ever deemed as being a road for extensive vehicle numbers. It was granted by commonland right holders and previous Lords of the Manor as a farm access only track. One also has to consider the increased traffic already coming out both Rufford Lane end and Billet Lane end onto the A616 since the change of ownership at this property, which is highly unsuitable given that two working farms are still frequently using and maintaining this track for the purpose of it being there for their farming activities. **Again more traffic from more visitors coming to evermore entertainment offers in a countryside setting – unsuitable. We note that on the Forest Events website in the first 13 holiday let application it is written that parking is available for up to 250 cars – if this is meant to include the commonland, then that is trespass (as was the case as the applicant ran his field party events a few years ago, which seems now to be called The Festival rather than Wellow Fest...never anything to do with Wellow or its residents). The potential 100 plus vehicles for this premises license party venue alone would destroy a narrow track and bring village walkers in danger as Forest Event visitors arrive if not also throughout the evening as some may leave.**

Wildlife disturbance – Being in close proximity to the SSSI of Wellow Wood/Park, these developments are highly unsuitable and will go completely against Natural England's Wildlife protection policies – **increased number of people for an even later party atmosphere till 2am and after with the leaving of numerous cars exiting a quiet lane does not only disturb the important nocturnal wildlife we're always told by NSDC conservation officers is so important around Wellow “owls/bats crossing from the wood to the village barns, and Eakring woods**

etc”, but to the villagers with residential properties on the bottom green and then throughout the village if the entrance in the middle of the village is used next to Highfield House. This village enjoys a quiet rural peacefulness after the two village pubs close, one where owls and the gentle chime of the village clock can be heard after 11pm. The thought of this being permanently lost is significant to Wellow's charm. A village which has been admired and spoken about even by district and county councillors for its continued ability to remain being one of Nottinghamshire's last largely unspoilt villages. We urge you to consider this as being a major point.

Disturbance to nearby farms and their livestock – Yet more non-farming and intrusive development allowed at this 'business', would lead to the true farmers neighbouring the property to see their livestock disturbed even further from the continuous growth of this development. Surely the safeguarding of true farming practises are to be protected and praised in a heritage village such as ours, and not tossed aside for property development purposes at non-farming establishments. Locally sourced lamb and pork needs to be protected by NSDC, and not pushed out. **Surely it can be clearly seen that increased numbers of visitors, party goers to these premises through the allowance of a premises license would mean that the adjacent farmers sheep and lambs will be further stressed than the already 13 holiday let under construction at the moment will cause once open. Vehicles leaving as late as the early hours, and an alcohol license from 7am-2am both on and off the premises and live and recorded music from 11pm-2am is a clear disturbance to the farmer's livestock and their three generational livestock business. Of course it is also understood that live and recorded music is allowed before 11pm without licensing which could mean the village would have to endure noise disturbance most of the day too.** With big farming vehicles to be manoeuvred around these tracks, an increase in car numbers has already seen the track having to be maintained on a more regular and costly basis – and this is done by the kindness and good-will of the two local farmers for each other and the villagers to use for walking....not the applicant property developer.

Noise and neighbour disturbance – This goes without saying that since the sale of the farm as a farm, it has had development upon development added to it causing a great deal of noise and disturbance to the local residents. Past events at the premises have been known to gridlock the length of the A616 through the village, have cars parked all over commonland and a complete disregard to the neighbouring properties inhabitants. Once a fitting country farm house with barns (which could have been sensitively converted and kept as fitting to its location), is now turning into a Butlins holiday camp (as one resident put it), with loud events to sprawl over an ancient village. **It is noted on the application that “All guests will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours. Will make sure that doors and windows are kept closed (except for ingress and egress) to reduce noise nuisance from the premises” - regard for the Wellow Green neighbours or indeed the rest of the village has sadly never been this applicants stance, and without a permanent police presence windows and doors remaining closed, visitors remaining well-behaved and not wandering the village drunken, is unlikely to be adhered to.**

Non intrusive recreational activities (walking, jogging, horse-riding) hindered – Wellow Green has long been enjoyed by villagers of all ages and generations, visiting ramblers and sports lovers. The

Green has its tranquil cricket pitch, commonland surrounding it and the dam where plenty of wildlife have been the source of amusement over the decades for the youth of the village and good of the environment. These wonderful places both safe for recreational purposes and for nature and wildlife to flourish, are being destroyed by this intrusive and insensitive over-development. And we look to NSDC to make the right decision by taking these comments on board and looking at their own policies which seek to recognise the intrinsic character and beauty of the countryside and to conserve and protect heritage assets (a rural country village, its conservation status, its SSSI and sense of equilibrium to name but a few). **It would be immensely sad to see Wellow's lanes become unusable by its own residents who have long enjoyed the circular walking routes the commonland allows for. And if anything has been learnt through this current covid pandemic it is how valuable our countryside and walking opportunities on our doorsteps is. Our local Heritage Group are doing a fantastic job in researching Wellow's history and promoting Wellow for its unspoilt setting and attraction for inter-village walks between our neighbouring villages in North Notts, putting walking and cycling leaflets together which promote these quiet lanes for these recreational purposes (and helping walkers and cyclists to use a quiet lane rather than a busy A616 road). Horse-riders have long been using this track to avoid the ever-increasing (and speedy) traffic numbers on the main road, and crossing over from Rufford Lane along Wellow Green to Potter Lane. Where on earth should these slower forms of transport (pedestrians, cyclists and horse-riders) go if lanes are made too dangerous through too much traffic?**

**It has to be said it was understood after the 13 holiday lets application was passed on appeal that the 616 'had planning permission for the 13 bed holiday accommodation and for no other purpose'. Well clearly there is another purpose with this premises license application going in, and additional holiday lets on the horizon to be built once the premises license is passed.**

**This is slowly becoming a mini-center parcs but without the necessary buffer-zone and protection of the existing heritage rich and conservation village.**

Many thanks for considering these comments.



Woodside Farm  
Wellow,  
Newark,  
Nottinghamshire  
NG22 0EJ

## **OBJECTION TO PROPOSED LICENSE FOR FOREST EVENTS AT THE 616 SITE**

We are writing to object to the proposed license for Forest Events Ltd for The 616 venue (Wellow, Newark, NG22 0EJ)

We are objecting all aspects of the license:

- Live music until 2am Monday to Saturday and until 0000 hours on Sundays.

- Late night refreshment until 2am seven days a week.

- The sale of alcohol for consumption both on and off the premises from 7am-2am seven days a week.

The objections are based on the following grounds:

1. Environmental impact
2. Proximity to residential areas
3. Non adherence to previous licenses
4. Proximity to Woodside Farm
5. Demand in the area
6. Safety concerns
7. Current planning permission

### **1. Environmental impact**

The new hotel site is extremely close to a SSSI woods, thus containing many important species of wildlife and ancient trees. The noise and light pollution would be encroaching on the ancient forest and in turn would affect the abundant natural woodland wildlife and would also affect neighbouring properties including ourselves.

The hotel though not even open yet already creates significant light and noise pollution in the area, from which we and other residents are already affected, from the building work of the current hotel. Once the hotel is up and running there would be additional 24/7 light and noise pollution created by the hotel from the buildings and events held there, without the addition of live and recorded music, alcohol consumption and refreshment service at the proposed times for this license into the early hours of the morning.

With the hotel being located so close to the SSI woods we feel a Heritage Impact Assessment including an archaeological assessment to enable further consideration of any potential heritage implications of the proposal need to be enforced prior to granting any license to Forest Events.

The submitted sound level test report by 'Cosmic Sound', an East Midlands PA sound hire company, is wholly inadequate. They are not acoustic sound engineers or consultants. A noise report undertaken by a suitably qualified acoustic sound engineer is required. The report needs to be approved by a senior EHO before any regulated entertainment can take place at the 616 site.

## 2. Proximity to residential areas

The location of the 616 site is surrounded by residential housing and many with young families. We feel that the alcohol consumption and noise from the music would affect residents, in particular those with young families with children in bed asleep at the proposed times for the music.

The part of the application that is especially concerning is the 'sale of alcohol off the premises'; noise would spill out to the outside environment, creating additional noise and additional litter in the area. We have had previous issues with litter from the past events held at this site, spilling into our fields where sheep reside and also into the SSI woods.

At the proposed times, it is especially quiet in the village and the noise will echo around the valley and village. This comes with previous experience from numerous past events held by Forest Events at The 616 site. To have this on a permanent basis would be detrimental to the area and its residents.

## 3. Non adherence to previous licenses

[REDACTED]

[REDACTED]

[REDACTED] So would question if the license holder would adhere this new license, rules and regulations. I would question how the events that are proposed to be held would be policed by the license holder to ensure only the hotel residents use the events and are kept safe both inside and outside, when there is only overnight accommodation for 13 bedrooms. With alcohol purchasing outside the hotel, I would also be concerned about guests spilling out into the surrounding areas of the village, again how is this going to be kept under control and policed? I would question how the local authority is going to police this too. With rural policing being at an all time low, I would think this kind of eventing/license should be kept to more urban areas.



#### **4. Proximity to Woodside Farm**

As part of our planning requirements for relocating our pig farm to the existing site (Woodside Farm, Wellow), we had to adhere to a minimum 400m distance from residential properties, this was in order to protect residents from unnecessary noise, smell and light pollution. The hotel planning application already contravenes our 400m distance and I am sure this license would have implications for being too close to our farm also.

The proposed license would hugely affect our life from constant unwanted noise until 2am, due to the close proximity to the site, causing undue stress for our family.

It is well known that noise levels can contribute to cardiovascular effects in humans and animals. Along with putting our family at risk it is also going to put our animals at risk.

The proposed license would have a detrimental effect on our livestock and therefore our business. We have sheep permanently residing in the fields surrounding the 616 site and pigs extremely close by. The additional constant loud noise into the early hours of the morning could cause unnecessary stress to our animals potentially resulting in interfere with reproduction, effect lamb growth and feed efficiency, the noise levels could also alter the predator detection and avoidance which they rely so heavily on.

This would reflect in our end product and obviously lower their currently high welfare, low stress life that they have. Stress has been shown to reduce performance in animals, can contribute towards miscarriages and affect their ability to consume food. In animals it

#### **5. Demand in the area**

With numerous other venues in the area for functions, with varying sizes and purposes, it brings into question the demand for such a license at the 616 site. When other venues are better located away from residential areas, with little intrusion on the countryside and its residents.

#### **6. Safety concerns**

Living so close to the event we confirm that there is only one shared access point/drive into and out from the site location (we own the rest of the access surrounding the site) so we would question the safety for the proposed events being held there. The one access point is also lacking any safety lighting, which is another safety concern when considering a license for events held here regularly and at the hours suggested by the license applicant.

There is poor highway access into and out of the 616 venue from the main road which is the A616. There are only 2 possible entry and exit access points to get to and from the main road. As residents using the access points several times a day we can say visibility is extremely poor and use is dangerous even to regular users who are aware of the potential dangers. On one access point (the access closest to Ompton village) visibility is poor coming out from the proposed hotel site onto the main road (Newark Road, A616) due to houses and walls situated by the road side.

The other access point (going past Wellow dam onto Newark Road, A616 nearer to Ollerton) is a staggered junction. There is increased danger when pulling out here and turning right onto the A616 towards Ollerton. It involves drivers who wish to turn right having to negotiate traffic coming from the opposite direction at a staggered junction at up to 50mph. The use of this junction has increased significantly recently due to several new housing developments in close proximity to the 616 site.

The 'road' that guests of the events/hotel will travel along after leaving the A616 to access the hotel is an unadopted, unsurfaced, pot holed, single track and unlit. ~~The road that the either access point~~ The track is ~~maintenance by some of the local residents, not~~ classed as common land and is currently maintained by the ~~council~~ due good will of two local farmers for the use of the local residents. Who would be liable for the maintenance of this with the increased usage by event goers? The safety of this unadopted track is questionable for large volumes of guests to use, with frequent locals using it for recreational walking, cycling and horse riding. This road is only going to deteriorate in condition with this increased traffic and decrease in safety for pedestrians.

(As a side note part the track from Woodside Farm, going past Hall Farm and up to the access point closest to the Ompton has just been attended to by the two local farmers, so is showing that it is currently in a reasonable state of repair).

Wellow village roads were gridlocked after a recent event held at the 616 site and was overrun with guests, which highlighted the fact that the venue and our small village roads cannot cope with the size of events and traffic going through and to add this also wasted a lot of police time trying to rectify the situation. It also highlights the fact that the one access into and out of the site is not safe and insufficient for use for big events. This would be another reason not to encourage big events here by granting the proposed license.

## 7. Current planning permission

The 616 venue currently only has planning permission for a 13 bed holiday accommodation (26 people) with no permission for 100 car carpark as mentioned by the license applicant. Serious questions need to be raised as to where the additional

274 people will park their cars and reside when on site. The current area where we have previously seen being used as a car park for past events has no lighting and cannot hold many cars for big events. The additional cars have previously been parked throughout the village, blocking roads, drives and access points making it dangerous for both pedestrians, road users and poor access for emergency vehicles.

The 'underground cellar' in the submitted plans show no second means of escape in the event of an emergency such as a fire. When considering the amount of people the proposed license is for, issues like this definitely need to be addressed prior to granting any license in order to protect the safety of people attending the event.

Please use the above address for contact.

Richard and Jennifer Baugh

Application for Premises License: Applicant: Forest Events Ltd, Wellow. NG220EJ.

The 616.

**We are vehemently opposed to the granting of this Licence.**

We find it hard to believe that the applicant is once again applying for a Premises licence at a property which is quite clearly defined by a Government Inspector as being a **13no HOLIDAY LET UNITS, ASSOCIATED KITCHEN AND LIVING AREAS AND AN OFFICE RECEPTION AND STAFF ACCOMMODATION, AND FOR NO OTHER PURPOSE.**

The wording of the Public Notice being displayed in relation to this application we believe to be inaccurate and misleading. What Forest Events Ltd is now seeking is far removed and a complete departure from what the Government Inspector stipulated.

We suspect the applicant is aiming for a much higher goal, moving from the permitted Holiday Let Units to a Venue with all the trappings of a **HOTEL!**

Within the application we believe the registered Company number provided to be incorrect, the Company mentioned under this number 11491447, bears no resemblance to Forest Events Ltd.

**It is also noted that no site plan has been provided outlining the car parking area.**

We question this omission as the Decision Notice issued on the 26 June 2018 by Katie McDonald appointed by the Secretary of State Ref: APP/B3030/W/17/3184203. In the Schedule of conditions at 12 clearly states “**The parking area as shown on the ‘site plan dated 16/11/2016’ shall be retained as such for the lifetime of the development.**”

We are not aware there to have been any changes made to the planning permission granted by Ms. McDonald, which allows a parking area for 30 vehicles, and not the envisaged 100 vehicles or more.

Furthermore we do not believe any provision was made for any underground facilities.

#### **Prevention of public nuisance:**

**In this instance we do not believe simple measures or otherwise will prevent public nuisance.**

**It will be unavoidable to prevent disturbance to both people occupying the holiday let units or the people living in the private dwellings within very close proximity to The 616 (as described on the application)**

**What provision has been made for those who wish to enjoy an alcoholic drink along with a cigarette? Doesn't this have to be a designated area and to be an open covered space?**

We assume smoking is prohibited inside all licensed premises! Will **this not** cause noise and disturbance until the early hours of the morning by virtue of the fact people will have to be outdoors?

If there is to be up to the suggested 300 people attending the Venue at any given time, with alcohol available until 2am for consumption on and off the premises we find it incredulous to believe this will not create any noise or public disturbance.

The access track leading to these **HOLIDAY LET Units** is an unadopted rough track passing directly to the front of private residential properties. The licensed hours, which are being proposed, will undoubtedly disturb these residents. Guests who are not staying within the curtilage of the premises i.e. DJ's, live bands and one would presume some staff will be leaving at varying times of the day and in most instances after 2am.

When departing an area at night it requires the use of lights the majority of movement will be by some form of transport, resulting in the use of headlights, engines and in some instances, the tooting of warning instruments maybe sounded, at times as a greeting or conversely acknowledging departure.

The whole of the premises will need bright outside lighting in all areas, especially during the winter months when day light hours are minimal thus resulting in some light pollution.

Up to and in excess of 100 vehicles being constantly parked in close proximity to a designated SSSI does not bode well for the flora and fauna!

**Public safety:**

Once again we have to reiterate that whole of the length of the access track from the A616 highway to the premises is a rough uneven track made up of some loose material of varying sizes with no form of lighting, very unsuitable, especially for those who choose to leave on foot thus having to negotiate their way across an area that has no pavements with no street lighting, completely dark during the winter months and beyond. With it being across Common land, there will be occasions when it will not be possible to step aside off the track onto the grass, as is with many areas of Common land there is permitted grazing rights whereupon it necessitates the use of electrified fencing.

We refer once again to the Government Inspectors Decision and the discussion held with the Highways authority regarding the safety of the access route to the site in question.

Initially, Highways raised concerns regarding the increased volume in traffic as the junction opposite Rufford Lane has plethora of turning points. At the time of the Decision a view was taken that to grant permission for 13 Holiday Let Units would not exacerbate traffic movement to an extent, which would deem the junction dangerous.

We hope due diligence has been afforded on the safety aspects of this application by both N & S planning and the NCC highways department, since the applicant appears to be moving way outside and beyond the Planning permission granted there now appears to be the potential, to multiply more than three fold the vehicle movements to this site should the Holiday Let Units receive a Premises licence?

We do not believe it is possible to quantify, the extra vehicular movements this application may cause on any one day as no day can be predicted.

One has to take into account and it should not be overlooked that this property has the one and only access route over Common Land via an un adopted single track used by not only the residents living in close proximity to the site it is also used by local farmers who have all manner and types of large agricultural implements. There are dog walkers, ramblers, fisherman, horse riders and in the summer months cricketers on the cricket pitch adjacent the track and last but not least sheep are able to graze on the Common land, at this time this area is enjoyed by many.

A premises licence operating seven days a week till 2am is not conducive or compatible with the forgoing.

It has been noted that a cellar has been shown on the plans provided which does not appear to have an identified a fire exit/ escape route nor do we believe it has planning permission.

Have we been misinformed when we have been led to believe that for this cellar to be brought into use it would require a further planning application to be submitted?

With regards to the sound level test report provided it leaves many unanswered questions and falls way short of a noise impact assessment report.

### **Crime and disorder**

It maybe the case that lighting helps to prevent crime and disorder, we believe it to be important that we draw your attention to the fact once outside these premises the immediate surrounding area will be completely dark, if a crime were to be committed in this area there would be very little possibility of it being witnessed.

### **Children:**

When applying for the requested hours for both the serving of alcohol and the playing of music it leads one to believe the applicant maybe applying for a **Nightclub/Disco** neither of which are conducive to where children maybe residing ... Sleeping in rooms in close proximity (if the license is granted) to where these activities will be taking place (**Music Room**) one presumes that there maybe periods when these children could left unaccompanied by an adult It is implausible to believe that the use of expletives will not be heard.

In light of the above could this environment be assessed as being safe for children?

In view of the forgoing, we reiterate that we profoundly object to the granting of this license and do not believe any of our comments to be frivolous or indeed vexatious.

Keith and Margaret Hopkinson  
The Old Smithy ( Bottom Green)  
Newark Road  
Wellow  
Newark, Nottinghamshire  
NG22 0EJ

## **Notification to Licensing Authority of Representation under Licensing Act 2003**

### **Name of 'Other Person' making representation:**

Mrs Jenny Hubbard of Wellow Hall Cottage, Wellow, Newark. NG22 0EA

Contact details c/o Kurnia Licensing Consultants Limited

### **Agent acting for 'Other Person':**

Mr Michael Kheng, Kurnia Licensing Consultants Limited, 1 Beck Hill, Reepham. LN3 4EN

Email: [mkheng@kurnia.co.uk](mailto:mkheng@kurnia.co.uk)

Telephone: 07971 841273

All correspondence in this matter to be via Kurnia Licensing Consultants Limited.

### **Application subject to representation:**

Application for a new premises licence by Forrest Events Limited in respect of The 616, Wellow, Newark. NG22 0EJ

### **Details of the representation:**

On behalf of Mrs Jenny Hubbard, we wish to make a representation against an application for a new premises licence submitted by Forrest Events Limited in respect of The 616, Wellow, Newark. NG22 0EJ as we believe the granting of the application will undermine all four licensing objectives.

The application seeks to enable the premises to have live and/or recorded music until 0200hrs Monday to Saturday and until 0000hrs on Sunday, late night refreshment until 0200hrs seven days a week and the sale of alcohol for consumption both on and off the premises from 0700hrs to 0200hrs seven days a week.

The plans attached to the licence show an area on the ground floor shaded pink as the bar area which appears to be approximately 5m x 12m and a cellar area shaded darker pink marked as a music area.

There appears to be no means of escape from the cellar in the event of a fire so we question how can the licensing authority grant a premises licence for an area that could potentially be a fire trap? If there is a mean of escape then the plans should reflect this as per the Licensing Act Regulations.

In the application under 'Public Safety' the applicant states 300 people could attend the venue. We understand that the venue has been granted planning permission for holiday accommodation only, to accommodate 26, and for no other purpose.

As the ground floor bar cannot possibly accommodate 300 people it will be that visitors, they will be visitors and not guests staying, as the premises can only accommodate 26 people in their bedrooms.

The potential to have 274 people outside until 0200hrs drinking will result in a noise nuisance being created. As this is a remote site there is also a potential for over 100 vehicles at the start and finish of each event moving in and out of the venue, over common land, along a narrow farm track. This would result in a noise nuisance being created and a danger to others, especially in the early hours of the morning along a farm access track, that does not have a tarmac or a bound surface, and is made up of loose material with potholes. The farm access track is not bound by any Highway Code restrictions and does not have any street lighting.



Nottinghamshire County Council Highways made the following comment in respect of a recent planning application for the 13 bed accommodation:

*“There are two access points shown to the site. The access road at the rear of the site opposite Rufford Lane is unsuitable for an intensification of use, as it is located on a busy ‘A’ road (A616) at an already busy junction in a derestricted zone. This is an awkward 4-leg staggered junction with the access effectively providing a 5th leg on a bend. There are already existing traffic movements associated with the site access for the fishing pond and existing uses. There have been 3 injury accidents at this junction location in the last 3 years; one of which was classified as ‘serious’.*

*The second access, located to the east of Eakring Road, is an existing farm access where visibility for emerging vehicles is substandard to the right (in a westerly direction) due to the boundary wall of the adjacent dwelling, Highfield House. It is considered that an intensification of use of this access will result in an increase in vehicular conflict.”*

We feel the comments from the highways must be taken on board.

The premises have planning permission for 30 vehicles only, therefore traffic on the farm access track would be significantly increased due to the use of taxis by the visitors. Large movements of vehicles will result in noise nuisance, disturbance, and danger.

Further, Condition 13 of the Inspector’s Planning Appeal decision notice states that the premises shall be used for holiday accommodation and for no other purpose.

Alcohol has been applied for consumption on and off the premises. We strongly object to consumption off the premises. This could lead to people attending the venue wandering around the village consuming alcohol in an uncontrolled environment which in turn could lead to anti-social behaviour and a noise nuisance being created.

The sound level test report submitted with the application is supplied by Cosmic Sound. The Cosmic Sound website <http://cosmicsound.co.uk/> describes them as ‘an East Midlands PA sound hire company’. They are not acoustic sound engineers or consultants, and the report is not a noise impact report. Their gallery shows images of their work which appears to be that of large-scale rock concerts. This gives some concern about the intended use of the site as it appears the premises licence could be a steppingstone to something much larger.

The applicant states the use of Challenge 21/25. This should be one or the other and suggest that Challenge 25 be used.

We feel the application should be refused but should the licensing subcommittee be minded to grant the application we request the following restrictions and conditions be applied.

#### **Suggested Additional Conditions**

All licensable activities to cease at 2300hrs.

The supply of alcohol is to be for the consumption on the premises only.

The cellar area may not be used for licensable activities until such time that there is a suitable means of escape that has been approved in writing by Nottinghamshire Fire and Rescue Service.

The maximum numbers that may attend the premises is limited to 75 at any one time.

The supply of alcohol be limited to the consumption within area marked on the plan as 'bar area' attached to the application.

A noise assessment report be produced by a qualified acoustic sound engineer and agreed with the EHO and any measures recommended by the report be completed before any licensable activities can take place. A copy of the report to be deposited with the licensing authority.

A noise limiter be fitted and to be used at the source of any live and/or recorded music with the level being agreed by the EHO and the sound limiter sealed by the EHO.

Noise from amplified and non-amplified music and singing arising from live and/or recorded music, as well as speech, at the premises shall not be audible inside habitable rooms of noise sensitive properties in the vicinity.

Notices be displayed near exits requesting that customers respect neighbours by leaving quietly.

The licence holder or his representative shall conduct regular assessments of the noise coming from the premises during regulated entertainment and shall take steps to control the level of noise to a reasonable level such that it does not cause nuisance to local residents.

A CCTV system shall be installed and maintained in working order and operated at the premises to the satisfaction of Nottinghamshire Police, specifically:

- a. There shall be a minimum of one high resolution camera fitted in a weatherproof housing, for external coverage of the entrance.
- b. There shall be a minimum of one high-resolution colour camera fitted to the public entrance/exit to provide a quality head and shoulder image for facial recognition/identification purposes of all persons entering the premises.
- c. There shall be sufficient cameras able to cope with the normal operating illumination to cover all licensed public areas.
- d. Recordings must be kept for a minimum of 31 days and endorsed with the accurate, correct time/date (BST/GMT adjusted).
- e. The frame rate should be maintained to an optimum of 25 frames per second (real time) where practicable and should in any case not fall below 6 fps.
- f. Police and/or Licensing Officers shall be able on attendance to view playback of any incident without the necessity for download.
- g. Recordings of incidents at the premises must be provided to the police following lawful request.
- h. A member of staff shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request.
- i. Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.

The premises licence holder shall ensure that there is an adequate written risk assessment of the need for door supervision at the premises and shall provide door supervision in accordance with that risk assessment. Such an assessment shall be written down and kept at the premises, for a minimum period of 6 months, and be available for production on demand by a person under the direction and control of the Chief Constable or an authorised officer of Newark and Sherwood District Council.

A record/logbook shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor. The record shall be retained for a period of 12 months from date of completion and contain the following details:

- a. The door supervisor's name;
- b. His/Her Security Industry Authority licence number;
- c. The time and date he/she commenced and concluded their duty;
- d. The door supervisors shall sign each entry; and
- e. The Designated Premises Supervisor or other authorised person shall also endorse each entry as having checked the authenticity of the individual door supervisor.

An incident book shall be kept at the premise in which details of crime and/or disorder relating to the premises shall be recorded. The incident book shall contain the following details;

- a. Time, date and location of incident.
- b. Nature of the incident
- c. Names, addresses and contact details of persons involved.
- d. The result of the incident.
- e. Action taken to prevent further such incidents.
- f. Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS.

The incident book shall be made available to police upon request. Each entry shall be retained for a period of 12 months from date of completion.

There shall be in place the following policies:

- a. Drugs Policy
- b. Door Supervisor Policy
- c. Search Policy
- d. Dispersal Policy

These policies shall be made available for inspection by a police licensing officer or any person authorised by the licensing authority.

Challenge 25 shall be implemented, and a proof of age policy is to be applied with the accepted means of proof of age being:

- a. Passport
- b. Photo Driving Licence
- c. A recognised valid photo-id card bearing the PASS hologram

Challenge 25 notices shall be displayed in prominent positions throughout the premises.

A refusals book, or electronic record, shall be kept recording all instances where service of alcohol is refused. Records to be retained for at least 12 months and shall be made available for inspection to the Police, or other officers of a Responsible Authority, upon request.

Michael Kheng – Kurnia Licensing Consultants Limited – duly authorised agent for Mrs Jenny Hubbard

02 December 2020

Shadowlawn, Maypole Green, Wellow, Newark, NG22 0FE  
22.11.20

Dear Sir / Madam.

We are writing to object to the granting of a premises licence application in respect of the 616, Wellow, Newark, NG22 0EJ which has been submitted by Forest Events Ltd.

As you know Wellow is a beautiful conservation village with one of the very few permanent maypoles in the country sited on its village green, surely a jewel in the tourism crown of Newark. The granting of a licence for live and recorded music until 2.00 a.m, late night refreshments until 2.00 a.m and the sale of alcohol on and off the premises from 0700 hours to 0200 hours seven days a week can only be seen as damaging to this beautiful rural village in the heart of Nottinghamshire. It is difficult to imagine why bed and breakfast accomodation in the heart of the countryside should require such facilities.

It appears that the site is to be used for an entertainment venue. Presumably all the people who attend events at this site will have to arrive and depart by car. As this is a remote site with very poor access across a deeply rutted and damaged road.

no lighting or pavements we consider this will create a considerable danger. Also the b16 does not appear to have planning permission for parking a considerable amount of vehicles.

Wellow already has two pubs that serve the local community and visitors admirably. The addition of another licensed premises could only be seen to damage their business.

Please give these comments your utmost consideration and refuse the license.

Yours faithfully

ATTN The Licensing and Enforcement Section,

I would like to object to the licensing request at the premises of Forest Events Limited at 'The 616', Wellow, NG22 0EJ as it will have a negative impact of the licensing objectives.

The application details that the licensee will ensure that the maximum occupancy of the licensed premises is restricted at any one time to 300, however the application is for a venue that is under an umbrella of a larger group of properties by the same owner that is advertising for events and venue hire. This is mentioned in part 3 of the operation schedule:

"ADDITIONAL GUESTS (OTHER THAN OVERNIGHT STAYS) MAY ATTEND FOR EVENTS SUCH AS MUSIC CONCERTS or THE FESTIVAL or OTHER CELEBRATIONS, SUCH AS A WEDDING or ANNIVERSARY, BUT PRE-BOOKED AND BY INVITE ONLY."

These festivals and other celebrations being held at the same address have been advertised as having a capacity for up to 2,500 patrons.

With licensing of up to 300 patrons in the same area as a 2,500 capacity festival yet only a 26 adult accommodation property results in huge confusion over the capacity at the property. Additionally there is not sufficient information in the application to confirm how the 26 to 300 (?) licensee restriction will be enforced and the introduction of a 24 hour licensed alcohol premises at such a capacity can only have a negative impact on light and noise pollution in the surrounding area and the neighbouring village which is an extremely quiet and rural area, undoubtedly resulting in public nuisance and an increased risk to crime and disorder. This is especially true with respect to the current licensing being for consumption of alcohol on and off the premises, which would create the possibility for a huge volume of people to be wandering around the nearby villages carrying and consuming alcohol in the early hours of the morning.

Even with a limit of 300 patrons, with the venue only having accommodation for 26 adults this is up to 274 additional people that require transport to and from the event. If the venue were able to keep 2 guests per car, it would be over 100 vehicles requiring car parking on site. The 616 does not have sufficient planning permission to accommodate that many vehicles in its car park.

The area which surrounds the 616 is very remote so entry/exit to the event for such a large number of people would also be extremely dangerous. There is no street lighting or pavements, and the only access road is a very narrow track.

On the submitted plans there is also no clear means of escape from the cellar except a single entry/exit way, without a second fire escape there is a clear risk of a significant fire trap.

With reference to the sound report submitted by Cosmic Sound, the report is inadequate as they are not certified acoustics engineers or consultants. A noise assessment report undertaken by a suitable qualified acoustic sound engineer is required. The report should be approved by a senior EHO before any regulated entertainment can take place.

Many thanks,

Mr and Mrs Lomax

The Licensing and Enforcement Section,  
Newark & Sherwood District Council,  
Castle House,  
Great North Road,  
Newark on Trent, NG24 1BY

Reference new application for premises licence - Forest Events Ltd, The 616, Wellow

We understand the importance of the need for a licence to ensure a controlled environment and we are in support of this.

However due to the close proximity of the venue to our home and the potential for noise at unsociable hours from music and people returning to their accommodation, we feel 2am is too late.

We hope these comments will be taken into consideration and an acceptable balance can be found.

Yours faithfully

Mr Richard Sharpe & Mrs Audra Sharpe  
Barn 4 Park Farm, Wellow

The Licensing and Enforcement Section,  
Newark and Sherwood District Council,  
Castle House,  
Great North Road,  
Newark on Trent,  
NG14 1BY

27<sup>th</sup> November, 2020

RE: Premises Licence Application for The 616, Wellow, NG22 0EJ.

We wish to lodge a strong objection to the granting of a premises licence application in respect of The 616, Wellow, Newark, NG22 0EJ, which has been submitted by Forest Events Ltd. The granting of the application will have a negative impact of the licensing objectives.

"The 616" has planning permission for a 13 bed holiday accommodation and for no other purpose. This involves a maximum of 26 people. However, the applicant's intention is to hold events which will attract up to 300 people. Such a volume of people drinking outside until 0200hrs will result in noise and disturbance to local residents. Noise from music / singing arising from live or recorded music will have a detrimental and unwarranted effect on the peaceful atmosphere of our conservation village.

The application is for the consumption of alcohol on and off the premises of "The 616". We strongly object to the granting of the consumption of alcohol off the premises as this could lead to people who are attending the venue wandering around the village consuming alcohol in an uncontrolled environment and this may create anti-social behaviour and noise.

There is the potential for over 100 vehicles at the start and finish of each event to be travelling to and from "The 616" venue along a narrow track which is unsuitable for this volume of traffic. There is no street lighting or pavements and therefore moving vehicles will create a danger to pedestrians. The noise from this amount of traffic will create nuisance and disturbance to village residents. N.B. Previous events held at "The 616" have also created gridlocks along the A616 road towards Ollerton and Newark and the village of Wellow has been overwhelmed with parked vehicles because "The 616" venue does not have planning permission for the parking of over 100 vehicles.

This application, and what it entails, is wholly inappropriate for the area. If it is granted it will detract and destroy a very special rural environment. Wellow is a peaceful conservation village. It has a unique heritage which should be protected and preserved for the future generations to come.

From: Concerned Residents of Wellow

Mr. & Mrs. T. Staite



The Licensing and Enforcement Section  
NSDC  
Newark on Trent  
NG23 1BY.

1<sup>st</sup> December 2020.

RE: Application for Premises Licence. The616 Wellow. Forest Events Ltd.

Dear Sirs

I am against the granting of the Premises Licence in the above application on the following grounds of objection.

The venue has planning for a 13 bed holiday let and as such the infrastructure is not capable of supporting up to 300 guests per event as requested. Existing Mains Drains are very old and not designed for that capacity. The access roads are unmade and in a very poor state of repair with no pavement/pathway and no street lighting.

Both possible road exits are dangerous junctions onto a busy A road which have caused major problems in the past.

The potential for noise nuisance until 2.00am six days a week plus 12.00 on Sundays is very real from both live/recorded music plus the large number of guests being outside the premises due to the physical size of the bar area. Also vehicle movements in and out.

Sale of alcohol for consumption off premises could lead to guests being in the village itself especially considering the size of the toilet facilities available at the venue. Another potential noise nuisance.

The A616 website offers the venue for both Stag Nights and Hen Parties, neither mentioned on its application and potentially noisy events for a rural venue.

The premise of "Invite Only" of up to 300 guests will be impossible to police and could result in general public attending events with possible disruptions and other consequences of noise and impact on local residents.

Yours Faithfully

M J Sugden  
The Old Barn  
Newark Road  
Wellow  
NG22 0EA.

Dear Sir/Madam

With regards to the above application by Forest Events Ltd for a premises licence, I am writing to object to the granting of this.

The application in such a small village will have a large negative impact on the quiet enjoyment of the village and its residents and visitors.

With the added number of visitors and cars there will be an adverse impact on the whole village, bearing in mind it is in a conservation area, by way of noise, rubbish, traffic and potentially anti-social behaviour bearing in mind the target audience of the proposed events/event organiser.

Previous events held at this location have not been managed well and have impacted massively throughout the village as well as the residents who live adjacent to the location. The type of problems included people urinating in people's gardens, leaving rubbish around, damaging people's property, traffic to the point of blocking the main routes through the village as well as side roads and people's driveways and access to properties preventing them from accessing their home.

The result of having these events will also affect the access road to the site and more importantly have a negative impact on the surrounding area which includes the common land and the area of scientific interest which is adjacent to the site.

The access is of a poor standard and is a potential danger to anybody using it due to the increased traffic, lack of lighting, etc.

The majority of the village is of the upper age bracket and by granting this licence people will probably not want to leave their houses/property and be afraid of what they may encounter should the events such as stag and hen parties be held here.

The residents of Wellow have moved to the village to enjoy the quiet and friendly environment which will be completely removed if this licence is granted.

If you decide to grant a licence then all of the times for the use of music, late night refreshments and the sale of alcohol should be brought in line and restricted to the hours that the public houses have to follow - this venue should not be treated any differently to them. Also, there needs to be a full acoustic test (upon completion of the building works) by an authorised company (preferably UKAS accredited) who specialises in acoustic testing and reporting especially regarding compliance with the Building Regulations ensuring that there is no noise pollution to the adjacent residents and the village.

I trust that you will consider mine and any other comments when reviewing the application.

Regards

Pippa Slater

## For the attention of the licencing department

Dear Sir or Madam,

Ref: Application by Forest Events Ltd for a Premises Licence at The 616 Wellow Notts NG22 0EJ.

I write on behalf of Wellow Parish Council to make representations against the granting of a Premises Licence to Forest Events Ltd for the above premises.

Wellow Parish Council is concerned that the granting of a licence on the basis of the application would have a seriously detrimental effect on local residents with a significant increase in noise within the vicinity of the premises throughout the night. This potential nuisance would be exacerbated by the likelihood of there being a substantial number of cars and taxis arriving and leaving the premises as there would be insufficient overnight accommodation for all guests to an event. Clearly there would be a cumulative impact on local residents as well as the wider village. We remind the committee that there are residents living within the original boundaries of Chapel Farm in effect right on top of the premises.

The Parish Council is further concerned that there is inadequate access to the premises with the access track unsuitable for a large number of vehicles which would pass other residents' properties at potentially all times of the day. We believe that this is wholly inappropriate and further underlines the impact that the granting of this licence would have on the local community.

Since the original application was withdrawn we note that sound tests have been carried out and we ask for these to be repeated when building works are complete. We would also like to know how the noise pollution is to be controlled? Will the applicant keep all doors and windows closed to their hall, in the summer months this does not seem practical and therefore adequate noise controls will not be in place, we need measured readings from an acoustic engineer to guarantee no noise pollution.

We also remind the committee of the restrictive covenant at this location.

It is the Parish Council's belief that for the reasons outlined above the applicant should not be granted a licence. In the event, however, that the applicant is granted a licence it is requested that it be subject to certain conditions with these being that live and recorded music (indoors and noise controlled), late night refreshment and the serving of alcohol is stopped at 11pm on Sunday to Thursday and 12am (ie midnight) on a Friday and Saturday and that any off sales are restricted to those residents staying at the bed and breakfast only. This would help to mitigate the potential concerns outlined above.

Kind Regards

Karen Green  
Clerk  
Wellow Parish Council

Dear Nichola.

I see that The 616 Venue has made a licensing application. I am also aware that the parish and associates of the parish members will as normal be objecting to this application. I have some knowledge of the licensing objectives and the venue and would like to state the obvious. If the licensing application is refused, this will not prevent the venue from opening. All it will prevent is the owners from managing the licensing objectives. I support this application for the betterment of the village, both in managing the licensing objectives, economic growth and local employment.

Kind regards  
Richard Atkinson

Sent from my iPhone

Dear Nicola,

Re: Chapple Farm licensing, Wellow

I'm writing to register our objections to the new proposed licensing at Chapel Farm. We live at Stag Cottage directly opposite the entrance to Chapel Farm. David Chapelhow and Morgan Gair Kettles have a long history of running lettings and events from this site previously, which have caused no end of stress for us and all the surrounding neighbours. A few years ago, they used to have hen and stag dos and late night parties running most weekends. The local neighbours are all elderly around here, and both my husband and I suffer health problems and sleep disorders, and endless parties made our lives a misery. Guests would party in the farm front garden, often spilling on to the green, making noise, shouting, swearing and blasting music until the early hours and leaving a trail of rubbish on the toft holder's land, which would have to be cleared away by the neighbours. Signage put out for the events would never be cleared away by the applicants, but again, would fall to the neighbours. The limestone tracks leading up to the farm, are full of pot holes and can barely stand the small volume of traffic they currently endure. Party goers and visitors would very regularly speed up and down these paths, kicking up clouds of dust and rendering the tracks unusable. Ourselves and our neighbours on both sides have young grandchildren visiting regularly who are exposed to very unsavoury behaviour of stag and hen do guests, including my very young granddaughter once seeing "butlers in the buff" serving at a hen do. The young children are also affected by speeding cars down our quiet tracks.

My objections to the new licensing are as follows:

\*Noise - 2am is wholly inappropriate for a cut off point in a small village of elderly residents. Many of our neighbours go to bed around 9pm. The continual disruption to our lives would be immense.

\*Litter - as we already have had a history with Chapel Farm running almost identical events, but without licensed alcohol, we can be safe to assume the litter problem will be as bad or worse.

\*Safeguarding children - raucous hen and stag dos, which inevitably spill on to toft holders land, and can be heard from the farm itself are wholly unsuitable environments for children. The parties can always be heard from our front lawn, and we should not have to keep children indoors. In addition people driving fast on unsafe tracks (which have blind corners) poses a real danger.

Mr Chapelhow and Ms Kettle put on Wellow Fest once per year. Ourselves and our neighbours endure this, at volumes for which the police have come out several times, we put up with festival goers urinating on our hedges and the village cricket pitch, parking on unsuitable village common-land, huge volumes of litter and noise until the early hours. My husband and I have never complained about this despite the huge disruption, because it is once per year, and only for a weekend. We appreciate that people need to have fun, and that sometimes comes at the cost of local residents. However, we cannot bear the thought of noise and disruption every week, and the impact that would have on our health.

Thank you for taking the time to consider our concerns.

Yours sincerely,

Salianne Collier

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.





Home Office

# **Revised Guidance issued under section 182 of the Licensing Act 2003**

April 2018

## **Revised Guidance issued under section 182 of the Licensing Act 2003**

April 2018



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Web ISBN 978-1-78655-639-4

## 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

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<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

Section	Offence	Prosecuting Authority
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.)

# 16. Regulated entertainment

## Types of regulated entertainment

- 16.1 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime. Changes to regulated entertainment are due to take effect on 6 April 2015. Therefore, up until that date you should refer to chapter 16 of the guidance published in October 2014.
- 16.2 The descriptions of entertainment activities licensable under the 2003 Act are:
- a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;
  - a boxing or wrestling entertainment;
  - a performance of live music;
  - any playing of recorded music;
  - a performance of dance; and
  - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 16.3 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:
- take place in the presence of a public audience, or
  - where that activity takes place in private, be the subject of a charge made with a view to profit.
- 16.4 Guidance around what constitutes audiences and private events is at paragraphs 16.11-16.14.

## Overview of circumstances in which entertainment activities are not licensable

- 16.5 There are a number of exemptions that mean that a licence (or other authorisation<sup>18</sup>) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:
- activities which involve participation as acts of worship in a religious context;
  - activities in places of public religious worship;
  - education – teaching students to perform music or to dance;
  - the demonstration of a product – for example, a guitar – in a music shop;
  - the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;

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<sup>18</sup> The word 'licence' is typically used as a reference to all forms of authorisation

- Morris dancing (or similar)<sup>19</sup>;
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity<sup>20</sup>;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity<sup>21</sup>;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors)<sup>22</sup>.

16.6 As a result of deregulatory changes that have amended the 2003 Act<sup>23</sup>, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500<sup>24</sup>.
- 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 an event between 08.00 and 23.00 on any day, provided that those present do 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.
- 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,

<sup>19</sup> Including any live music or playing of recorded music as an integral part of a performance of Morris dancing, or similar activity.

<sup>20</sup> See paragraphs 16.57-16.61

<sup>21</sup> See paragraphs 16.65-16.68

<sup>22</sup> This was previously licensable under the 2003 Act until the commencement of the Live Music Act 2012.

<sup>23</sup> The Live Music Act 2012 ("2012 Act") <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 ("2014 Order") <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 ("2015 Act").

<sup>24</sup> But see paragraphs 16.47 -16.48 in relation to dance that is adult entertainment and remains licensable.

provided that the audience does not exceed 500<sup>25</sup>.

- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace<sup>26</sup> that does not have a licence, 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<sup>27</sup>.
  - 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.
- 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)

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<sup>25</sup> Provided that a number of other important conditions are satisfied (see paragraphs 16.38-16.43).

<sup>26</sup> The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act.

<sup>27</sup> Provided that a number of other important conditions are satisfied, see paragraphs 16.38-16.43.

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.

- 16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely<sup>28</sup>, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN)<sup>29</sup> could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning).<sup>30</sup> Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.
- 16.9 The various effects of the changes made to entertainment licensing by the set of deregulatory changes between 2012 and 2015<sup>31</sup> are described in greater detail in subsequent paragraphs:
- Music entertainment, see in particular paragraphs: 16.20-16.21; 16.26-16.33; and 16.36-16.44;
  - Plays, dance, and indoor sporting events, see in particular paragraphs: 16.34-16.35 and 16.45-16.48;
  - Local authority, hospital and school premises, see in particular paragraphs: 16.16-16.20
  - Community premises, see in particular paragraphs: 16.21-16.24 and 16.34-16.35
  - Circuses, see in particular paragraph 16.25
  - Boxing or wrestling entertainment, see in particular paragraphs: 16.49-16.51.

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<sup>28</sup> See paragraph 16.12

<sup>29</sup> See chapter 7

<sup>30</sup> See paragraphs 16.70-16.72 in relation to other licensing regimes

<sup>31</sup> An entertainment activity may meet the conditions of more than one exemption

## General circumstances in which entertainment activities are licensable

16.10 An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act, as amended<sup>32</sup>.

### Audience

16.11 For the purposes of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present<sup>33</sup> and that the purpose of the licensable activity is (at least in part) intended to entertain any person present<sup>34</sup>. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.

16.12 More than one entertainment activity (or for a single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation.

### Private events

16.13 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). For example, where a party is held for friends in a private dwelling featuring amplified live music, if a charge or contribution is made solely to cover the costs of the entertainment, the activity is not regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit. The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit.

16.14 Schedule 1 to the 2003 Act also makes it clear that before entertainment is regarded as

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<sup>32</sup> See examples at paragraph 16.5

<sup>33</sup> In some circumstances, such as un-ticketed live music events, a degree of judgement may be required as to whether persons are part of an audience. Factors to consider could include whether a person is within the perimeter of the premises, the audible range of the performance, and their visibility of the entertainment. In order to meet the definition of an entertainment activity in the 2003 Act, the activity must take place in the presence of an audience and be provided for the purpose, or for purposes which include the purpose of, entertaining that audience.

<sup>34</sup> For example, a darts championship competition hosted in part to entertain an audience could be a licensable activity, but a pub game of darts played for the enjoyment of the participants is not licensable.



being provided for consideration, a charge has to be:

- made by or on behalf of a person concerned with the organisation or management of the entertainment; and
- paid by or on behalf of some or all of the persons for whom the entertainment is provided.

## **Circumstances in which entertainment activities are no longer licensable**

16.15 No licence is required for certain entertainment activities on specified premises, as follows:

### **Local authorities, hospital healthcare providers and school proprietors: cross-entertainment activity exemption**

16.16 No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08.00-23.00 on any day provided that:

- for entertainment provided by, or on behalf of, a local authority it takes place on premises in which that authority has a relevant property interest, or is in lawful occupation;
- for entertainment provided by, or on behalf of, a health care provider it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is in lawful occupation; and
- for entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

16.17 This Guidance cannot give examples of every eventuality where entertainment is not licensable under this exemption through being provided “by or on behalf of”. It will depend on the facts in each case. However, the following are examples of activities that are not usually considered to be licensable under this exemption:

- Any entertainment activity hosted by a local authority on their own premises, where there is a significant relationship between the local authority and the provider of the entertainment (e.g. principal and agent);
- Any entertainment activity organised on a local authority’s behalf on that local authority’s premises by a cultural trust in discharge of a local authority’s discretionary power to arrange entertainment provision and support for the arts, including festivals and celebrations.
- Any entertainment activity organised by a healthcare provider on their own hospital premises in partnership with a hospital charity;
- Any entertainment event on school premises organised by the Parent Teacher Association (PTA) to benefit the school.

16.18 It is for the local authority, health care provider or school proprietor to determine whether, and on what basis, they can (or wish) to provide entertainment activity under this exemption, including consideration of issues around fundraising, profit making, governance or use of public funds. However a pure hire of premises by a third party<sup>35</sup>

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<sup>35</sup> But see paragraph 16.20

does not constitute the provision of an entertainment event “on behalf of” a local authority, healthcare provider, or school proprietor and nor does commercial entertainment which the local authority<sup>36</sup> merely facilitates through providing a public space<sup>37</sup>.

16.19 All the terms used in this exemption, such as “local authority”, “health care”, “health care provider”, “hospital”, “school”, “school premises”, “school proprietor”, “domestic premises” and “relevant property interest” are defined in the 2014 Order<sup>38</sup>.

### **Local authority, hospital and school premises: third party music entertainment**

16.20 No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08.00-23.00 on any day provided that:

- it is performed in front of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent<sup>39</sup> of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by a 3rd party and on what terms they deem it appropriate.

### **Community premises: music entertainment**

16.21 No licence is required for a performance of live music or the playing of recorded music on community premises<sup>40</sup>, between 08.00-23.00 on any day provided that:

- the community premises are **not** authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises<sup>41</sup>;
- the music entertainment is in the presence of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent<sup>42</sup> of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

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<sup>36</sup> Or healthcare provider or school proprietor.

<sup>37</sup> The exemption would similarly not apply, for example, to a commercial company operating on premises belonging to a local authority under a long term lease.

<sup>38</sup> See footnote 20

<sup>39</sup> This requirement is designed to ensure that those responsible for the premises hosting the entertainment have considered and approved the effect of the event on other users of their premises and the wider community.

<sup>40</sup> The definition of community premises is covered in paragraphs 4.56-4.60 of this Guidance. A community premises is likely to be multi-functional and ‘other similar building’ within the definition cannot be stretched to ordinarily include a public house, a bingo hall, or other business premises or private property.

<sup>41</sup> Where a community premises is licensed for the supply of alcohol by a premises licence (or exceptionally a club premises certificate), then any performance of live music or the playing of recorded music on relevant alcohol licensed premises may be subject to the conditional deregulation described in paragraphs 16.26-16.33.

<sup>42</sup> See footnote 36

## Community premises: exhibition of film

- 16.22 No licence<sup>43</sup> is required for an exhibition of a film on community premises<sup>44</sup> between 08.00-23.00 on any day provided that:
- the film entertainment is not provided with a view to profit<sup>45</sup>;
  - the film entertainment is in the presence of an audience of no more than 500 people;
  - the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
  - a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent<sup>46</sup> of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.
- 16.23 Under this exemption, one condition is that the film entertainment is not being provided with a view to profit<sup>47</sup>. An entry charge does not of itself make the film entertainment licensable; it is whether the organiser intended to make a profit (that includes raising money for charity). A charge or contribution that is made solely to cover the costs of the film screening<sup>48</sup> is consistent with 'not being provided with a view to profit'. The 'not with a view to profit' condition applies solely to the activity of exhibiting the film under this exemption. A charge with a view to making a profit may legitimately be levied for any other activity or event that is distinct from film admission, such as the provision of refreshments, film talks, or a social event.
- 16.24 This community film exemption is also conditional on those responsible having in place operating arrangements that ensure that the age rating for the film is implemented by means of a suitable child admission policy<sup>49</sup>. How this is achieved is a matter for the organisation or social group exhibiting the film. For example, they may operate a membership subscription scheme which pays for entry to all titles in a season and is limited to adults. It could be a children's film club with a policy of only showing films that are suitable for all by being rated 'U' by the BBFC. Alternatively, the organisers could sell tickets to the public and ensure that children are only permitted to attend in accordance with any age rating for the film – i.e. a door admissions policy linked to proof of age.

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<sup>43</sup> However, see paragraph 16.70 in relation to copyright

<sup>44</sup> See footnote 37

<sup>45</sup> See paragraph 16.23

<sup>46</sup> See footnote 36

<sup>47</sup> 'not provided with a view to profit' is the inverse of 'with a view to profit' mentioned in paragraph 16.13

<sup>48</sup> Legitimate costs of a film screening would include overheads directly relevant to providing the film entertainment (e.g. premises hire, film hire, equipment etc.)

<sup>49</sup> See 3rd bullet point in paragraph 16.22

## Travelling circuses

16.25 Where types of entertainment are present in a performance by a travelling circus<sup>50</sup> they will not be licensable provided that certain qualifying conditions are met<sup>51</sup>. The qualifying conditions are that:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

## Live music

16.26 Live music is licensable:

- where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;
- where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
- where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises<sup>52</sup>;
- where a performance of amplified live music takes place at relevant licensed premises, or workplaces<sup>53</sup>, in the presence of an audience of more than 500 people<sup>54</sup>; or
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review<sup>55</sup>.

16.27 In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or TEN, allowing it to take place could lead to enforcement action and, where relevant, a review of the alcohol licence or certificate.

16.28 A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or club premises certificate in respect of relevant licensed premises.

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<sup>50</sup> 'Travelling circus' is defined in the 2014 Order as meaning a circus which travels from site to site for the purpose of giving performances. Musical entertainment at a travelling fairground is likely to be incidental to the main attractions and rides that are not themselves regulated entertainment.

<sup>51</sup> There is no audience limit for this exemption, but the conditions are designed to ensure that deregulation does not have unintended consequences for the licensing objectives – e.g. only bona fide travelling circuses qualify.

<sup>52</sup> See Chapter 3 of this Guidance

<sup>53</sup> See paragraph 16.31

<sup>54</sup> The 2014 Order substituted "500" for "200" that was in the 2012 Act

<sup>55</sup> See paragraphs 16.55-16.56

16.29 As a result of the amendments to the 2003 Act, section 177 of the 2003 Act now only applies to performances of dance<sup>56</sup>.

## Key terms used in relation to live music

- 16.30 Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist<sup>57</sup> or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds<sup>58</sup>. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.
- 16.31 A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.
- 16.32 A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.<sup>59</sup>

## Recorded music

- 16.33 No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable:
- where the playing of recorded music takes place before 08.00 or after 23.00 on any day;
  - where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;<sup>60</sup>
  - where the playing of recorded music takes place at relevant licensed premises in the

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<sup>56</sup> See paragraph 2.13. Post the 2013 Order, Section 177 can be relevant to a performance of dance after 23.00 on any day

<sup>57</sup> Karaoke is generally classed as a performance of live music

<sup>58</sup> This would include ‘scratching’

<sup>59</sup> TENs are covered in chapter 7

<sup>60</sup> See Chapter 3 of this Guidance

presence of an audience of more than 500 people; and

- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).<sup>61</sup>

## Plays and dance

16.34 No licence is required for a performance of a play or dance to the extent that certain qualifying conditions<sup>62</sup> are satisfied. However a performance of a play or dance remains licensable:

- where the performance takes places before 08.00 or after 23.00 on any day; or
- where the performance takes place in the presence of an audience of more than 500 people.

## Indoor Sport

16.35 No licence is required for an indoor sporting event to the extent that certain qualifying conditions<sup>63</sup> are satisfied. However an indoor sporting event remains licensable:

- where the event takes places before 08.00 or after 23.00 on any day;
- where the event takes place in the presence of more than 1000 spectators.

## Licence conditions

### Live Music or recorded music

16.36 Any existing licence conditions<sup>64</sup> (or conditions added on a determination of an application for a premises licence or club premises certificate<sup>65</sup>) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

16.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

16.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g.

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<sup>61</sup> This would be by way of imposing a condition on a premises licence or club premises certificate as a result of a licence review, see paragraphs 16.55-16.56

<sup>62</sup> See paragraphs 16.6 and 16.45-16.48

<sup>63</sup> See paragraph 16.6.

<sup>64</sup> In relation to relevant licensed premises, see paragraph 16.32

<sup>65</sup> See paragraphs 16.39-16.40

signage asking patrons to leave quietly) will continue to have effect.

- 16.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.
- 16.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.
- 16.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.<sup>66</sup>

## **Beer gardens**

- 16.42 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.
- 16.43 Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace<sup>67</sup>. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.
- 16.44 However, a licensing authority may, where justified<sup>68</sup>, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

## **Plays, dance and indoor sport**

- 16.45 Where qualifying conditions are satisfied<sup>69</sup>, any current licence condition that relates to a performance of a play or dance, or an indoor sporting event for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.
- 16.46 Where, however, these non-licensable activities take place at the same time as other

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<sup>66</sup> See paragraphs 16.55-16.56 and chapter 11.

<sup>67</sup> A beer garden is one example of a potential workplace, see paragraph 16.31. Whether other outdoor spaces (such as seating adjacent to a premises, a smoking shelter, or a car park) constitute a workplace, part of the licensed premises, or neither, will be a matter of fact in each case.

<sup>68</sup> Including on a licence review

<sup>69</sup> See paragraph 16.6

activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out in paragraphs 16.52 and 16.53 (conditions relating to other non-licensable activities).

16.47 Dance that is sufficiently sexual in nature continues to be regulated. Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not deregulated, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.<sup>70</sup>

16.48 In almost all cases where a performance of dance is potentially licensable as both the provision of **relevant** entertainment (under the 1982 Act) and **regulated** entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act rather than the 1982 Act will continue to be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

### **Boxing or wrestling entertainment and conditions relating to combined fighting sports**

16.49 An indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and any contest, exhibition or display that combines boxing or wrestling with one or more martial arts (‘combined fighting sports’) is – whether indoors or not – a boxing or wrestling entertainment.

16.50 Where a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an ‘indoor sporting event’, the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.

16.51 A contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex) does not require a licence provided that certain qualifying conditions are met. They are that:

- it takes place in the presence of no more than 1,000 spectators;
- it takes place between 08.00 and 23.00 on the same day; and
- it take place wholly inside a building and the spectators present at that entertainment are accommodated wholly inside that building.

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<sup>70</sup> Home Office Guidance is available at:

<http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>



## Conditions relating to other non-licensable activities

- 16.52 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.
- 16.53 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities<sup>71</sup> (and will generally be classed as a performance of live music<sup>72</sup>) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an 'open-mic' night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

## Removing licence conditions

- 16.54 A licence holder who wishes to remove conditions relating to activities that are no longer licensable<sup>73</sup> may apply to the licensing authority for a licence variation. In the course of considering such applications, licensing authorities should remove such conditions unless there are sufficiently serious and specific concerns about the effects of hosting deregulated entertainment activities along with the remaining licensable activities taking place in the premises.

## Licence reviews: Live and recorded music

- 16.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension<sup>74</sup> and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 16.56 An application for a review in relation to relevant premises can be made by a licensing

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<sup>71</sup> As a result of the 2012 Act

<sup>72</sup> Karaoke is generally classed as a 'performance of live music', and provided that it is genuinely taking place, it is not likely to be classed as the 'playing of recorded music'

<sup>73</sup> A licence holder may favour removal if the previously licensable activity has "grandfather" conditions that are out of date, or unclear. Where such a condition in relation to live or recorded music is suspended, then the licence holder may wish to avoid any prospect of the condition being given renewed effect (were a suspension to be lifted following a licence review).

<sup>74</sup> See paragraph 16.38.

authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements<sup>75</sup>.

## Incidental music

- 16.57 The performance of live music or playing of recorded music is not regulated entertainment under the 2003 Act if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.
- 16.58 The incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required, as it takes place between 08.00 and 23.00 on the same day and before an audience which does not exceed the relevant limit. This is because such an activity is no longer a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment<sup>76</sup> such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required.
- 16.59 Whether or not music is “incidental” to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:
- Is the music the main, or one of the main, reasons for people attending the premises and being charged?
  - Is the music advertised as the main attraction?
  - Does the volume of the music disrupt or predominate over other activities, or could it be described as ‘background’ music?
- 16.60 Conversely, factors which would not normally be relevant in themselves include:
- the number of musicians, e.g. an orchestra providing incidental music at a large exhibition;
  - whether musicians are paid;
  - whether the performance is pre-arranged; and
  - whether a charge is made for admission to the premises.
- 16.61 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether music is “incidental” in the individual circumstances of any case.

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<sup>75</sup> See Chapter 11 for more information about reviews under the 2003 Act.

<sup>76</sup> And as such, the music entertainment needs to be authorised under the 2003 Act. This would include music during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the ‘description’ of a ‘wrestling entertainment’.

## Busking

- 16.62 Busking or street performance is the practice of performing in public spaces for money. Performances are not limited to music or singing and can take the form of a wide range of activities that people find entertaining.
- 16.63 Busking is generally **not** licensable under the 2003 Act as:
- it often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment<sup>77</sup>;
  - the entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and
  - any unamplified live music is not licensable between 08.00 and 23.00<sup>78</sup>.
- 16.64 Local authorities may have policies on busking, including codes of conduct or permit regimes and occasionally byelaws and legislation specific to a local authority – although many localities have no policy or restrictions.

## Incidental film

- 16.65 An exhibition of a film within the meaning of paragraph 15 of Schedule 1 to the 2003 Act is not regulated entertainment if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.
- 16.66 The incidental film exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08.00 and 23.00 on the same day before an audience which does not exceed the relevant limit. Such activities would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while any exhibition of moving pictures cannot be incidental to a boxing or wrestling entertainment<sup>79</sup>, such film displays may be within the scope of the incidental film exemption for an indoor sporting event or performance of a play or dance for which no licence is required.<sup>80</sup>
- 16.67 Whether or not an exhibition of moving pictures is “incidental” to another activity will depend on the facts of each case. In considering whether or not film is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of an exhibition of moving images will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. This would mean that if the BBFC or the relevant licensing authority has given an age rating to a film, video, or music video, then to qualify for the “incidental film” licensing exemption, the admission of children to the premises will need to be restricted in accordance with the appropriate age rating. But that is one aspect of one relevant factor. Other factors to consider in assessing whether film is incidental might include some or all of the following:

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<sup>77</sup> See paragraph 16.3

<sup>78</sup> See paragraph 16.28

<sup>79</sup> And as such, the film display needs to be authorised under the 2003 Act. This would include moving pictures during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the ‘description’ of a ‘wrestling entertainment’.

<sup>80</sup> For indoor sporting events, it takes place between 08.00 and 23.00 in front of an audience which does not exceed 1,000.

- Is the film the main, or one of the main, reasons for people attending the premises and being charged?
- Is the film advertised as the main attraction?
- Does the screening of the film predominate over other activities, or could it be described as ‘background’ images?
- Does the appearance of moving pictures within another entertainment activity, for which no licence is required (e.g. a performance of a play or dance<sup>81</sup>), undermine the promotion of the licensing objectives?

16.68 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether film is “incidental” in the individual circumstances of any case.

## Entertainment activity provided as part of childcare

16.69 Entertainment activity that is provided as part of childcare will generally not be licensable. This includes entertainment activity in a nursery or private home. In addition, paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the main purpose is to provide education. Education will generally include all forms of pre-school child and day care. Furthermore, an exhibition of a film, or the playing of live or recorded music, will generally be incidental to the activity of childcare and so the incidental music and film exemption in paragraph 7 of Schedule 1 will also apply<sup>82</sup>. This will generally be the case for any entertainment activity organised as part of wraparound childcare<sup>83</sup>, including breakfast clubs, after school clubs or holiday clubs linked to the child’s school or based in the local community.

## Other Licensing regimes

### Copyright

16.70 The deregulation of licensing for the provision of entertainment under the 2003 Act does not remove the requirement for licences for the use of copyright works. Entertainment activities as described in paragraph 16.2 may require music and screening licences for example. The acquisition of such licences will make the entertainment compliant with the Copyright, Designs and Patents Act 1988.<sup>84</sup>

### Leafleting

16.71 The deregulation of entertainment licensing does not remove the prohibition on the unauthorised distribution of free printed matter in an area that has been designated under Schedule 3A of the Environmental Protection Act 1990<sup>85</sup>. The organisers of the event or entertainment may need to obtain consent from the relevant principal litter authority before giving out free printed promotional material (leaflets, flyers, cards etc.) in a public place in certain areas.

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<sup>81</sup> See paragraph 16.34

<sup>82</sup> See paragraphs 16.57-16.68

<sup>83</sup> Childcare for school aged children around traditional school hours

<sup>84</sup> Further information concerning how to acquire such licences can be found on <http://www.copyrightthub.co.uk>

<sup>85</sup> <http://www.legislation.gov.uk/ukpga/1990/43/schedule/3A>

## Child performers

16.72 Child performance legislation<sup>86</sup> requires that a licence must be obtained from a child's home local authority before a child can take part in certain types of performance and activities. A licence may be required whether or not any payment is made for the child to perform. The deregulation of entertainment licensing does not alter the regulations on when children can take part in performances<sup>87</sup>.

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<sup>86</sup> Children and Young Persons Act 1993 and 1963; The Children (Performance) Regulations 1968 as amended.

<sup>87</sup> The Children (Performances) Regulations 1968