



Report to: Licensing Committee Meeting – 1 December 2022  
Director Lead: Matthew Finch, Director – Communities & Environment  
Lead Officer: Alan Batty, Business Manager – Public Protection, Extn. 5467

<b>Report Summary</b>	
<b>Report Title</b>	Review of the Pool of Potential Conditions
<b>Purpose of Report</b>	To seek Members' approval for the use of a reviewed set of potential conditions that can be used when licence conditions are required to be attached to a Licence.
<b>Recommendations</b>	That Members adopt Version 4 of the Pool of Potential Conditions
<b>Reason for Recommendations</b>	To ensure all conditions are appropriate, legally sound and enforceable.

## **1.0 Background**

- 1.1 The Statement of Licensing Policy for Newark & Sherwood makes reference to a 'pool of potential conditions'. These are model conditions that may be used by Officers and Members when considering attaching conditions to a Licence issued under the Licensing Act 2003.
- 1.2 The conditions were drafted by the Nottinghamshire Authorities Licensing Group and were designed to provide a consistency of approach across the county as well as providing a framework for Officers and Members when considering the addition of conditions to a licence.
- 1.3 Changes in guidance, experience from Hearings and a general need for the conditions to be reviewed has now produced a revised pool of conditions.
- 1.4 Whilst there is a wide discretion to attach such conditions as the authority considers appropriate, in reality the discretion is tempered by a series of considerations that are set out in the statutory guidance. This states that licence conditions:
  - must be appropriate for the promotion of the licensing objectives
  - must be precise and enforceable
  - must be unambiguous and clear in what they intend to achieve
  - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation

- must be tailored to the individual type, location and characteristics of the premises and events concerned
- should not be standardised
- should not replicate offences
- should be proportionate, justifiable and be capable of being met
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff
- should be written in prescriptive format

1.5 The Act and its guidance are very clear that a list of standard conditions imposed in every case is not the correct manner in which conditions are to be used. They need to be applied where they are considered appropriate and proportional to the particular circumstances of any individual case.

1.6 These are conditions that cover the four licensing objectives and have wording which is considered to be clear, precise and enforceable. The pool conditions are also provided to ensure that the wording of conditions is consistent to assist the Police and licensing enforcement staff as well as the licence holder.

1.7 It is worthy of repetition that the pool of conditions is not a set of standard conditions to be imposed on every licence but is a source of previously considered conditions that meet the requirements of the guidance and can be a valuable tool to assist Members and Officers.

## **2.0 Proposal/Options Considered**

2.1 The pool of potential conditions has been reviewed by both Newark & Sherwood staff and the wider Nottinghamshire Authorities Licensing Group. Environmental Health, Police licensing and the Security Industry Authority have also been involved in the review process.

2.2 Whilst there has been no fundamental overhaul of the conditions there have been small amendments made to many of the conditions. For example, the addition of the term 'SIA licensed' when referring to door staff has been added. Overall, the review has added more definition clarity to the conditions and has removed any doubt as to how the condition can be interpreted. A copy of the conditions is attached as **Appendix 1** with the amended conditions highlight in yellow.

2.4 It is proposed that the revised pool of potential conditions - Version 4 is adopted for use by the Council.

## **3.0 Implications**

3.1 In writing this report and in putting forward recommendations, officers have considered a range of potential implications. There are no implications arising from this report.

## **Background Papers and Published Documents**

None