



Draft Licensing Policy

Version 6.4

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Draft West Berkshire Licensing Policy Statement. V6.4 Appendix I

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Text *in italics* is not intended to form part of the final version of this policy.

This draft policy must be read with the DCMS guidance under section 182 of the Licensing Act 2003

1. Definitions

- 1.1. The Council means West Berkshire District Council;
- 1.2. The Licensing Authority means the Council acting as defined by PART 2, 3[1][a] of the Licensing Act 2003;
- 1.3. The Act means the Licensing Act 2003.
- 1.4. The term etc. is used to denote the whole range of consents relating to the Act, including Licences, permits, variations, transfers, renewals, grant, temporary, provisional, club registration, Premises and Personal Licences.
- 1.5. DCMS means the central government Department of Culture, Media and Sport
- 1.6. Zoning means to control licensing hours in a defined geographical area.
- 1.7. Child means a person under 18 years of age.
- 1.8. DCMS guidance means the guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport in July 2004.

2. Introduction

- 2.1. This Licensing Policy Statement addresses the requirements of section 5 of the Act. It sets out the Council's licensing policy and accords with the DCMS guidance.
- 2.2. This policy **is not** intended to;

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- 2.2.1. repeat national legislation or national guidance. Rather it will aim to clearly state the policy of the Council, quoting or paraphrasing such sources only when considered necessary for a full understanding of the text;
 - 2.2.2. set out detailed conditions which will be published separately and in an appropriate form as may be prescribed by central government in the future;
 - 2.2.3. set out the detailed constitutional arrangements of the Council in relation to licensing matters such as schemes of delegation or Licensing Committee make up;
 - 2.2.4. set out the Council’s policy about licensing matters outside the remit of the Licensing Act 2003, for instance matters covering the licensing of taxis.
- 2.3. The policy relates to all those licensing activities identified as falling within the provisions of the Act, namely :-
- 2.3.1. Retail sale of alcohol
 - 2.3.2. Supply of alcohol to club members
 - 2.3.3. Provision of ‘regulated entertainment’ – to the public, to club members or with a view to profit
 - 2.3.4. A performance of a play
 - 2.3.5. An exhibition of a film
 - 2.3.6. An indoor sporting event
 - 2.3.7. Boxing or wrestling entertainment
 - 2.3.8. A performance of live music
 - 2.3.9. Any playing of recorded music
 - 2.3.10. A performance of dance
 - 2.3.11. Provision of facilities for making music
 - 2.3.12. Provision of facilities for dancing

- 2.3.13. The supply of hot food and/or drink from any premises between 11am and 5am
- 2.4. The scope of the policy covers new licence and permit applications, renewals, transfers and variation of conditions for annual and, where applicable, temporary licences. These licensing activities include personal licences, licensed premises, qualifying clubs and temporary events.
- 2.5. The Council recognises its duty under the Act to carry out its functions with a view to promoting the 4 licensing objectives. These are :-
- 2.5.1. *the prevention of crime and disorder;*
 - 2.5.2 *public safety;*
 - 2.5.3 *the prevention of public nuisance;*
 - 2.5.2. *the protection of children from harm.*
- 2.6. The Council recognises that the Act is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 2.7. The Council recognises that, in general, the area has relatively few major difficulties linked to the consumption of alcohol. However, the Council would not wish to see the liberalising advantages of the Act negated by the development of anti-social behaviour regularly associated with the excessive consumption of alcohol in some major conurbations. Accordingly, the Council will pay particular attention in determining licences, etc, to the operating schedules submitted by applicants. In so doing, the Council will seek assurance that measures are in place to further the promotion of the four statutory objectives of the Act. In this respect, the Council recognises its responsibilities under Section 17 of the Crime and Disorder Act 1998 and will co-operate closely with the Police, and other agencies making up the West Berkshire Safer Communities Partnership, and regularly monitor reports on crime and disorder.

The Council recognises the contribution made by the leisure and entertainment industry to the economy and vibrancy of West Berkshire. The Council is also aware of the negative impacts of noise, nuisance, light pollution, noxious smells and crime and disorder, which poorly regulated, licensed premises may have on the safety and amenity of residents and local business. The Council acknowledges the Government's Alcohol Harm Reduction Policy and will apply that guidance, and where appropriate, employ the powers made available under Sections 40 & 41 of the Anti-Social Behaviours Act 2003 if noise from any licensed premises is causing a public nuisance. .

3. Consultation on this Policy

- 3.1. The Council will review, and after consultation, re-publish its Licensing Policy at least once every three years. Whilst acknowledging this responsibility, the Council reserves the right to revise the Policy at more frequent intervals, should this be deemed appropriate.
- 3.2. Before publishing this policy statement, or any periodic review, the Council will consult with the following –
 - 3.2.1. the chief officer of police responsible for the West Berkshire area;
 - 3.2.2. the fire authority;
 - 3.2.3. representatives of licence holders of the various types including premises licences, club premises certificates and personal licences;
 - 3.2.4. local businesses and their representatives;
 - 3.2.5. local residents and their representatives;
 - 3.2.6. the West Berkshire Safety Advisory Group (SAG);
 - 3.2.7. the Local Safeguarding Children Board/ Area Child Protection Committee;
 - 3.2.8. the West Berkshire Children and Young People Strategic Partnership
 - 3.2.9. the West Berkshire Safer Communities Partnership; and
 - 3.2.10. other groups or individuals the Council feels appropriate.

The Council is aware that consultation which goes beyond the statutory minimum laid down by the Act will have to be funded from Council resources rather than licence fees.

- 3.3 Accordingly, the Council reserves the right to limit its consultations. The Council will give careful consideration and appropriate weight to the views of all those consulted before the publication of its first policy and at subsequent revisions. In particular the Council will seek the views of local Licensed Victuallers, Pub Watch schemes and representatives of local licence holders. The Council recognises the need to consult as widely as possible but also recognises the need to balance the costs of so doing.

4. The Licensing Process

- 4.1. Decision Making. The powers of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. In the interests of speed, efficiency and cost-effectiveness for all parties involved in the licensing process, the Council has adopted the scheme of delegation shown at Annex 1 to process applications received under the Act for personal and premises licences, club premises registration and temporary event notices. This form of delegation is without prejudice to referring an application to a Sub-Committee or the Licensing Committee if it is considered appropriate in particular cases.

(At the time of drafting this policy the final administrative arrangements cannot be completed because new, national secondary legislation has not been published. The final draft of this policy may therefore need amendment to reflect this.)

- 4.2. Principles of Determination. When making licensing decisions and imposing licensing conditions, the Council will concentrate on matters within the control of the licensee and others granted relevant authorisations. Generally the Council will be concerned only with the premises in question and its immediate vicinity. The Council will focus on the direct impact which the licensed premises, and its licensed activities, could have on members of the public living, working or engaged in normal activities in the area concerned. In granting licences etc, the

Council will expect applicants to address, in their operating plans, the measures they propose to take to prevent anti-social behaviour and crime and disorder. Where relevant, it should also include any impact on children, of licensable activities on, or in the vicinity, of their premises.

- 4.3. The Council will expect individual applicants to address the licensing objectives in their operational plans having regard to the type of premises and the licensable activities to be provided. As far as reasonably practical in individual cases, the Council will expect applicants to have taken local crime prevention strategies, child protection strategies and policies, planning and transportation policies and tourism and cultural strategies into account in determining their operating plan.
- 4.4. The Council will also expect operational plans to address detailed activities, depending on the nature of the event and the premises concerned. Typical examples could include references to:
 - 4.4.1. procedures at closing time between the last sales of alcohol and the closure of the premises;
 - 4.4.2. the drugs policy;
 - 4.4.3. the emergency closure and evacuation procedures in the event of violence, power failure or similar occurrences;
 - 4.4.4. special drinks promotions;
 - 4.4.5. the use of glasses and open bottles and;
 - 4.4.6. where drinking would be permitted, for example on pavement areas or on garden terraces;
 - 4.4.7. the use of licensed door staff to control entry at specific times and for specific functions and where appropriate the use of ‘search’ facilities to prevent the entry of both illegal substance and weapons into the licensed premises.
 - 4.4.8. training to be given to staff in crime prevention measures;

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- 4.4.9 the adoption by licensed premises of, and adherence to, best practice guidance given in the National Pubwatch Good Practice Guide and the Safer Clubbing Guide published by DCMS;
- 4.4.10 participation in pub watch or other appropriate schemes;
- 4.4.11 the presence, or otherwise, of transport facilities to ensure that patrons can leave the premises safely and without undue delay;
- 4.4.12 the use of CCTV and security lighting as measures to prevent violence and disorder.
- 4.4.13 adherence to the principles and practice defined in the Event Safety Guide, the Guide to Safety at Sports Grounds and other best practice advice where public safety could be compromised in the context of regulated entertainment;
- 4.4.14 the prevention of disturbance to neighbouring residents by patrons arriving at, or leaving, licensed premises through noise or light pollution;
- 4.4.15 the prevention of litter deposited by users of the licensed premises.
- 4.5. The Act requires the Designated Premises Supervisor to be named on the Premises Licence. Sufficient details are to be supplied to enable this person to be contacted if required.
- 4.6. The extent to which applicants take these various strategies into account will largely depend on the nature and scale of the proposal. However, local crime prevention strategies will usually be important for most undertakings as will the dispersal of people from licensed premises with later trading hours.
- 4.7. In determining licensing matters the Council will;
 - 4.7.1. consider only pertinent licensing factors as set out in law and in approved guidance;
 - 4.7.2. act without favour when considering matters linked directly or indirectly to the Council, for instance when dealing with an a licence application for one of its own properties;

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- 4.7.3. act in accordance with the principles of natural justice;
 - 4.7.4. will only impose conditions on a licence where they are necessary in the particular circumstances of an individual premises and such conditions do not duplicate other statutory requirements.
- 4.8. The Council recognises its licensing responsibilities under the Licensing Act 2003 and in particular will provide;
- 4.8.1. appropriate levels of resources including personnel, systems (including computer systems), and support;
 - 4.8.2. appropriate training for Elected Members, appropriate facilities at licensing hearings for applicants, the public and witnesses;
 - 4.8.3. hearings at times convenient to applicants and witnesses, as far as reasonably practicable;
 - 4.8.4. guidance and assistance to licence applicants;
 - 4.8.5. specialist guidance to organisers and audiences in particular cases or for particular types of events, for instance, specialist advice in relation to drug related problems;
 - 4.8.6. an appropriate system to receive related complaints and service requests.
 - 4.8.7. Elected Members and Officers will have regard to appropriate Codes of Conduct and Declaration of Interests in dealing with licensing applications. *A draft Code of Conduct has now been published for Officers.*
 - 4.8.8. The Council recognises there are personnel and financial implications linked to discharging its duties under the Act. *To date (Summer 2004) the income likely to be generated from licence fees is not known accurately.* As it is unlikely that the fees will cover even the basic costs of administering licensing, the Council will need to consider carefully the advisability of undertaking any licensing service which exceeds its statutory duty. The Council will, as far as reasonably practicable, check all applications and similar documents as they are received. In the case of those applications not

properly made, the Council will return the application package by second class mail, to the sender, with an appropriate explanation. The Council will also inform the applicant that any timescale applicable in the circumstances will only start when a properly made application is received.

- 4.9. If the applicant then returns the application package correctly made;
- 4.9.1. any timescale will begin then and;
 - 4.9.2. the application will not be prioritised as if it had been received at the earlier time.
 - 4.9.3. A properly made application means an application package complete with all necessary forms, fully completed, dated and signed, all necessary enclosures and any appropriate fee.
- 4.10. Generally applications etc received by the Council will be processed in the order received, however, the Council reserves the right, subject to statutory time scales, to process more urgent and correctly made applications in preference to those of a non-urgent nature received earlier.
- The judicial nature of the licensing process is such that elected members and officers of the Council can offer only limited assistance at hearings. It is important therefore that those giving evidence either as applicants or objectors:
- 4.10.1. consider taking legal or other professional advice;
 - 4.10.2. consider seeking the advice of Council well before the hearing;
 - 4.10.3. consult any advisory material produced by the Council or other informed sources;
 - 4.10.4. prepare thoroughly including acquiring a knowledge of any appropriate procedural matters, having all notes and evidence etc to hand and having sufficient copies of documents for all parties that might legitimately require them.

5. Temporary Event Notices

- 5.1 Where events are taking place which consist of either the sale of alcohol or the provision of regulated entertainment and there are to be less than 500 attendees, a

Temporary Event Notice (TEN) must be served on the Council by the Police. For events which have over 500 attendees, a Premises Licence will be required.

- 5.2 The council advises organisers of temporary events to submit their notice as soon as reasonably possible in order for the police to consider the event and for the council to check that the limitations set down in part 5 of the Act are being observed.
- 5.3 The Council recommends that at least two months notification of an event is given. Although notification cannot be less than 10 working days before the event, this may be insufficient time for the police to consider the effects of the notice. Notification two months prior to the event will enable the police to work with the organiser should there be representations made.
- 5.4 Working days are any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. Ten Working Days notice means ten working days exclusive of the day on which the event is to start.
- 5.5 Where reasonable notification is given, the Council will provide local advice about proper respects for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution and the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the use of pyrotechnics in public places; with regard to local bylaws; and the need to prevent anti-social behaviour by those attending.
- 5.6 Event organisers should submit their notice on a weekday and before 1200hrs on a Friday in order to have a quick response. Notices should be submitted to the Council Offices Faraday Road Newbury and marked for the attention of the Licensing Team Public Protection Service.
- 5.7 Notification to the police must be made to Newbury police station as above marked for the attention of the Licensing Officer.
- 5.8 It is strongly recommended that the Fire Authority are consulted prior to the notice being given.

- 5.9 In the event of a representation being made by the police, a hearing will be held and a decision given not less than 24 hours before the event is due to start.

6. Partnerships and Policy Integration

- 6.1. The Council recognises that there is often a mistaken perception that WBC is the primary agency responsible for solving anti-social behaviour problems. The Council recognises the licensing function is only one means of securing the delivery of the licensing objectives. It should not therefore be seen as a panacea for all anti social or criminal problems within the community. The Council will therefore continue to work in partnership with its neighbouring authorities, the police, local businesses and local people towards the promotion of the objectives. Most notably the Council recognises and acknowledges its duties under section 17 of the Crime and Disorder Act 1988.
- 6.2. To achieve the licensing objectives the Council will use a full range of measures, including its transport controls, crime and disorder policies and powers, as applicable, in the circumstances. The Council will seek to enter into partnership arrangements, working closely with the Police, the Fire Authority, local businesses, the Local Safeguarding Children Board/ ACPC and the West Berkshire Safer Communities Partnership, community representatives and local people in meeting these objectives. The Council will seek, in particular, to integrate its various strategies including those addressing crime prevention, planning, transport tourism and culture.
- 6.3. The Council recognises that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises. These include –
- 6.3.1. planning controls;
 - 6.3.2. ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
 - 6.3.3. powers to designate parts of the district as places where alcohol may not be consumed publicly;

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- 6.3.4. existing police powers of enforcement including issuing fixed penalty notices;
- 6.3.5. enforcement action against those selling alcohol to people who are already drunk;
- 6.3.6. confiscation of alcohol from adults and children in designated areas;
- 6.3.7. police powers of closure for up to 24 hours;
- 6.3.8. the power of police, local businesses or residents to seek a review of the licence.
- 6.4. The Council will endeavour to integrate its various strategies, and use the available legal powers, to achieve the licensing objectives in the interests of clarity for the applicants and effective determination.
- 6.5. The Council recognises that a major pre-cursor to crime and anti-social behaviour prevention is getting customers home at night when premises shut. It will be an important role of this policy to ensure all transport providers are aware of this and that the Council supports their efforts. The Council will therefore make arrangements to monitor the effectiveness of this policy in relation to its own transport strategies. It will periodically liaise with major transport providers in the district including the taxi trade to seek ways of improving the rapid dispersion of people at night.
- 6.6. The Council recognises that on occasions there will be conflicts between its transport strategy and other strategies.
- 6.7. The Council will make arrangements for its Licensing Committee to periodically receive reports on:
 - 6.7.1 the needs of the local tourist economy;
 - 6.7.2 the local cultural strategy,
 - 6.7.3 local employment and

- 6.7.4 the work of the Local Safeguarding Children Board in relation to the Act and the protection of children from harm.

7. **Each Application to be Determined on its Merits.**

- 7.1. Whilst this Policy sets out the general approach for making licensing decisions, the Council recognises that in determining individual cases, decisions must be consistent with both the provisions of the Act and this Policy. In particular, this Policy does not override the right of any individual to make representations on an application nor does it prevent anyone seeking a review of a licence or certificate where that provision has been made in the Act. In determining a licence application the overriding principle adopted by the Council will be that each application will be determined on its merits.

The Council will not operate a quota of any kind which could pre-determine an application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. The Council recognises that pubs, night-clubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. In considering applications, proper regard will be had to these differences and the impact they are likely to have on the local community.

8. **Licence Conditions**

- 8.1. The Council will:
 - 8.1.1. publish, periodically review and update a pool of appropriate licence conditions;
 - 8.1.2. prepare and publish appropriate guidance to licence applicants about the licensing scheme and the conditions likely to be applied if an application is successful;
 - 8.1.3. use plain English in its publications;
 - 8.1.4. provide translations when requested.

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- 8.2. However, the conditions attached to any particular licence will:
 - 8.2.1. always be tailored to the style and characteristics of the premises or event in question;
 - 8.2.2. only be applied when needed for the prevailing conditions and
 - 8.2.3. will only be applied when necessary to help achieve the licensing objectives.
- 8.3. The Council recognises that a pool of conditions could lead an applicant to believe only the listed conditions and no others will be applied. Care will be needed to ensure this danger is minimised. Applicants are reminded, however, that self-imposed conditions detailed in an operating schedule will, on the grant of a licence, form part of the final licence conditions, providing no relevant representations are received from interested parties.
- 8.4. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public, for example, health and safety at work and fire safety legislation.
- 8.5. Whenever reasonably practicable, the Council will ensure that other legislation, most notably fire safety legislation, does not omit controls on the understanding they will be addressed by licensing controls.
- 8.6. The Council may impose conditions intended to meet the licensing objectives and those of local crime prevention and child protection strategies. For example conditions may be attached requiring the provision or control of:
 - 8.6.1. CCTV;
 - 8.6.2. door staff (both the number employed and correct registration in accordance with current SIA requirements);
 - 8.6.3. toughened glass drinking glasses and restrictions on open bottles being removed from the premises;
 - 8.6.4. drinks promotions;
 - 8.6.5. 'proof of age' measures;

- 8.6.6. other measures intended to address the licensing objectives such as the playing of ambient music towards the end of an evening to reduce the possibility of violence and the handing out of sweets as people leave premises to reduce public nuisance by noise.
- 8.7. The Council wishes to encourage a wide range of entertainment activities and promote live music, dancing and theatre for the wider cultural benefit of the community. When attaching conditions the Council will try to avoid imposing substantial indirect costs which might deter live music, dancing or theatre.
- 8.8. Whilst the Council recognises the wider community and cultural benefits which can accrue, particularly for children from the production of live music, dancing and theatre productions. However, the local disturbance to neighbourhoods, particularly of open air events, will be carefully balanced against the community gain. Each instance will therefore be considered on its merits.
- 8.9. The Council will seek to monitor the impact of its licensing policy on live music and dancing performances in the district. If the Council becomes aware that its licensing policy is having an adverse effect on such performances in its area, it will endeavour to consult with appropriate bodies including trade representatives of performers the National Association of Local Government Arts to reduce the impact.
- 8.10. The Council recognises the important role played by premises not being overcrowded in helping to achieve the licensing objectives. The Council will normally:
 - 8.10.1. expect applicants for premises licences or applicants for club premises certificates to undertake an appropriate risk assessment to determine the safe occupancy capacity and where appropriate to incorporate this in the operating schedule;
 - 8.10.2. Consider the applicant's proposals for safe occupancy numbers and, if it considers it necessary, will consult with other bodies such as the Fire and Police services. The Council may decide to impose a safe occupancy figure which differs from that proposed by the applicant;

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- 8.10.3. apply a safe occupancy condition to all premises licences and all club premises certificates unless other, directly relevant statutory limits are already in place;
 - 8.10.4. seek to impose appropriate conditions, including the prevention of overcrowding, in premises used by children;
 - 8.10.5. work closely with the Fire Service to ensure previously imposed limits noted on earlier fire certification, are still relevant and appropriate in the prevailing circumstances;
 - 8.10.6. place considerable weight on the use of “during performance” inspections to determine safe numbers and prevent overcrowding.
- 8.11. In addressing the licensing objectives, the Council recognises the significant role played by drugs at some licensable events. Accordingly the Council may, in circumstances it feels appropriate, impose licence conditions aimed at addressing drug related problems. In so doing, the Council will consider appropriate guidance on the subject, for instance “Safer Clubbing” and consult with those it feels have expertise in the field, for instance the Drugs Action Team and the Young People’s Substance Misuse Group.
- 8.12. In seeking to minimise the impact of drugs, the Council may impose specific conditions including , but not restricted to:
- 8.12.1. the availability of free water;
 - 8.12.2. the provision of designated chill out areas;
 - 8.12.3. staff training in first aid to an appropriate standard and
 - 8.12.4. the provision of SIA licensed door supervisors.

9. **Licensing Hours.**

- 9.1. The Council recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Accordingly, the Council will encourage longer licensing hours in the interests of avoiding the concentration of such disturbance whilst also ensuring that nuisance is minimised to local residents. Whilst the Council considers that

longer licensing hours may be an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport, such extended opening hours are the prerogative of licence holders, however, they could be subject to challenge by local residents.

Shops, stores and supermarkets will generally be permitted to sell alcohol during the hours they intend to open. However, in the case of individual shops which are known to be a focus of disorder and disturbance, the Council may limit the licensing hours.

- 9.2. It is not the Council's intention to introduce zoning for the purposes of drinking hours. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary.
- 9.3. In general, the Council will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter noise control conditions are likely to be imposed on premises in residential areas.
- 9.4. The Council will encourage applicants to anticipate exceptional conditions or events which could require special or extended trading times and to incorporate these in their operating plans. Equally the Council recognises the rights of licensees to hold up to fifty temporary events each year subject to the correct notification procedure. Such notifications apart, the Council is also aware of the Secretary of State's power to declare national, general extensions of licensing hours by order, for special events.
- 9.5. Generally, the Council will consider proposed licensing hours submitted in applications for the sale and supply of alcohol and adjust these appropriately according to licensing objectives and relevant representations.
- 9.6. When setting licensing times, the Council can only consider those factors directly relevant to the Act. Consequently all other factors must be set aside. The Council may not be influenced by other legislation including those which may be contrary to contractual law. Most notably this will include controls in relation to permitted working hours for employees. In practice therefore, the Council,

acting in its capacity as a Licensing Authority, cannot refuse to grant opening hours solely because this would breach a workers employment rights. Similar examples may arise in other areas outside employment law. These may include race or disability discrimination.

10. **Cumulative Impact and Public Nuisance.**

- 10.1. The Council recognises that from time to time it may receive objections on the grounds of saturation. In these circumstances the Council will expect the objector to provide his or her own evidence for consideration.
- 10.2. The Council recognises it may receive representations from either a responsible authority, or an interested party, both defined by the Act, that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and so creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. On receiving such representations, or on its own volition, the Council may consider the cumulative effect that such a saturation of premises in one area may be having.
- 10.3. In determining whether to adopt a ‘saturation’ policy for a particular area the Council may, among other things
 - 10.3.1. gather evidence of serious and chronic concern from a responsible authority or local residents about nuisance and disorder;
 - 10.3.2. identify the area from which problems are arising and the boundaries of that area;
 - 10.3.3. make an assessment of the causes and
 - 10.3.4. adopt a policy about future applications for premises within that area.
- 10.4. If the Council establishes a saturation policy for a particular area, it will review that policy regularly and at least once every three years. It will not use such a policy to:
 - 10.4.1. revoke an individual premises that is already licensed;

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- 10.4.2. vary a licence except when directly relevant to the policy and when necessary for the promotion of the licensing objectives or;
- 10.4.3. impose a terminal hour.
- 10.5. Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area, the Council may consider it inappropriate for any further licensed premises to be established in the area. In any such decisions, the Council will take into account the merits of each individual application.
- 10.6. Where the cumulative effect of licensed premises may give rise to problems of nuisance for local residents at particular times, the Council may consider it appropriate to limit the hours of individual licensed premises. By virtue of the Act however, the Council may not impose a fixed terminal hour for a particular geographic area.

11. Children and Licensed Premises.

- 11.1. The Council recognises the wide variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, night-clubs, cafes, take-aways, community halls and schools. Although the Act sets out various controls restricting admission to children, nothing in the Act makes it a requirement that children must be admitted to licensed premises. Beyond the statutory controls, the Council will not normally further control entry to licensed premises by children unless it considers this to be necessary to protect minors from physical, moral or psychological harm. Where a licence includes children on the premises, then the suitability and safety of the premises will be considered.
- 11.2. Licensees are not to provide alcohol to those under 18 years of age except as provided for by the Act. The Council expects applicants for a licence to be able to demonstrate that satisfactory arrangements are in place to prevent such sales and recommended the following documents should be used as proof of age:
 - 11.2.1 Passport;
 - 11.2.2 Photocard driving licence issued in the European Union;

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- 11.2.3 Proof of Age card scheme eg Portman Group card or Connexions Card;
 - 11.2.4 Citizen Card issued on behalf of the Home Office;
 - 11.2.5 Identity Card issued to HM or NATO Forces bearing a photograph and date of birth of the holder.
- 11.3. The Council will normally seek to restrict entry to children in premises:
- 11.3.1. where entertainment or services of an adult or sexual nature are commonly provided;
 - 11.3.2. where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - 11.3.3. with a known association with drug taking or dealing;
 - 11.3.4. where there is a strong element of gambling on the premises. This would normally not include the presence of a small number of cash prize machines.
 - 11.3.5. where the supply of alcohol for consumption on the premises is the exclusive or primary purpose at the premise.
 - 11.3.6. where there have been convictions leading to registration under the Protection of Children Act.
- 11.4. When the Council considers restricting access by those under 18 this may mean a broad prohibition. However, depending on the circumstances, the Council may include one or more of the following controls:
- 11.4.1. specific times when children can or cannot be present;
 - 11.4.2. age limits for certain types of activities on the premises;
 - 11.4.3. age limits for those under 18;
 - 11.4.4. requirements for suitably qualified accompanying adults;
 - 11.4.5. such other conditions or restrictions as may be necessary to achieve the licensing objectives.

- 11.5. The Council recognises that licensees may wish to control entry to children but regards this a trade decision. The Council will not therefore impose conditions requiring the admission of children to licensed premises. So therefore, if a licensee decides to prohibit entry by children and the Council has chosen not to restrict entry, then the Council will respect that decision. Such a decision by a licensee might give rise to human rights issues beyond the remit of the Council acting under its licensing powers.
- 11.6. When dealing with applications for premises licences or club premises certificates, the Council will, when considering protecting children from harm, consult with its own Director for Children and Young People, or his designated officer and the Chair of the Local Safeguarding Children Board / Area Child Protection Committee.
- 11.7. The Council will establish appropriate protocols to ensure applications etc involving children are also directed to these persons who will be considered a “responsible authority” for the purposes of lodging representations.
- 11.8. For entertainment intended for children, the Council will require the presence of sufficient adults to control the safe access and egress of the children and generally to ensure their safety. Similarly, the Council will normally impose conditions requiring the presence of a nominated responsible adult when children are themselves the performers. Depending on the circumstances, the Council may require any such adults to be suitably qualified, experienced and free of criminal convictions.
- 11.9. In imposing conditions referred to above, the Council may draw up appropriate conditions for the number of supervising adults required.

12. **Film Exhibitions.**

- 12.1. Where the exhibition of films is permitted, the Council will require age restrictions to be complied with in accordance with the British Board of Film Classifications recommendations for the film in question. All premises licences and club premises certificates will be endorsed with a condition to this effect.

13. **The Planning System**

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- 13.1. The Licensing Committee will act independently of the Planning system and licence applications will be considered solely against licensing criteria. The Council will at all times separate its licensing and the planning role.
- 13.2. In considering a licence application, the Council will not take account of “need”. Rather, the Council recognises “need” may be a planning consideration or a commercial decision.
- 13.3. The Council’s Licensing Committee will periodically provide reports to the Council’s Planning Committee on the situation regarding licensed premises and the general impact of alcohol related crime and disorder.

14. Enforcement

- 14.1. Where enforcement action is necessary, the Council will act in accordance with its published Enforcement Policy which in turn is based on the principles of the Enforcement Concordat.
- 14.2. The Council will establish protocols with the local police and fire service on enforcement issues to provide an efficient deployment of who are commonly engaged in enforcing licensing law and the inspection of licensed premises. In particular, these protocols will provide for the targeting of agreed problem and high risk premises requiring greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 14.3. The Council believes that to maintain trade, public and partners’ confidence in the licensing regime, it needs to establish an active inspection and regulatory service. The Council will therefore, in combination with the Police and other partnership organisations, actively engage in seeking to:
 - 14.3.1. Advise licensees and potential licensees to prevent problems arising;
 - 14.3.2. Inspect premises both before and during their use under the Act;
 - 14.3.3. When necessary, suspend or otherwise restrict licences in accordance with the Act and its own enforcement policy;
 - 14.3.4. When necessary, institute legal actions including issuing formal cautions and taking prosecutions.

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14.4. The Council will actively enforce, alone or in partnership, all offences under the Act. However, the Council will, when deciding on best use of limited resources place weight on offences linked to:

14.4.1. Underage sales and;

14.4.2. The sale of alcohol to persons already drunk.

14.5. The Council reserves the right to introduce a penalty points or similar scheme intended to provide a cumulative score for one or more minor offences. Any such scheme, which would include details of offences will be subject to consultation and Elected Member approval before introduction. The introduction of any scheme will supplement and not replace other legal powers and duties.

15. End of draft

To Draft Licensing Policy

DELEGATION OF LICENSING FUNCTIONS

<u>Matter to be dealt with</u>	<u>Determined by Committee</u>	<u>Delegated to Officers</u>
Application for Personal Licence	If a representation is made	If no representation is made
Application for a personal licence with unspent convictions	All cases	
Application for Premises Licence/Club Premises Certificate	If a representation is made	If no representation is made
Application for a Provisional Statement	If a representation is made	If no representation is made
Application to vary Premises Licence/Club Registration Certificate	If a representation is made	If no representation is made
Application to vary Designated Personal Licence Holder	If a Police representation made	All other cases
Request to be removed as Designated Personal Licence Holder		All cases
Application for transfer of Premises Licence	If a Police representation made	All other cases
Application for Interim	If a Police representation	All other cases

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Authority	made	
Application to review Premises Licence/Club Premises Registration	All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious		In consultation with Chairman of the Licensing Committee
Application by the Local Authority	All cases	
Determination of Police representation to a Temporary Event Notice	All cases	