

Notice of Meeting

Licensing Committee

Thursday, 26 September, 2013 at 6.30pm
in Council Chamber Council Offices
Market Street Newbury

Date of despatch of Agenda: Wednesday, 18 September 2013

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Jason Teal on (01635) 519102
e-mail: jteal@westberks.gov.uk

Further information and Minutes are also available on the Council's website at
www.westberks.gov.uk



To: Councillors Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Billy Drummond, Adrian Edwards, Manohar Gopal, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles, Ieuan Tuck, Quentin Webb and Laszlo Zverko

Agenda

Part I

Page No.

1. **Apologies**
To receive apologies for inability to attend the meeting (if any).
2. **Minutes** 1 - 8
To approve as a correct record the Minutes of the meetings of this Committee held on 20 March 2013 and 14 May 2013.
3. **Declarations of Interest**
To receive any Declarations of Interest from Members.
4. **Licensing Policy: Update following new government legislation** 9 - 42
Purpose: To consider the updated and amended Licensing Policy Statement as required under the Licensing Act 2003 Part 2. 5. (1) (a) (b) and get agreement on it being sent out for consultation.

Andy Day
Head of Strategic Support

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LICENSING COMMITTEE

**MINUTES OF THE MEETING HELD ON
WEDNESDAY, 20 MARCH 2013**

Councillors Present: Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Adrian Edwards, Manohar Gopal, David Holtby, Tony Linden, Mollie Lock (Vice-Chairman), Geoff Mayes, Andrew Rowles, Ieuan Tuck, Quentin Webb and Laszlo Zverko

Also Present: Sarah Clarke (Team Leader - Solicitor), Brian Leahy (Senior Licensing Officer), Julia O'Brien (Principal Licensing Officer) and Jenny Legge (Principal Policy Officer)

Apologies for inability to attend the meeting: Councillor Billy Drummond

PART I

12. Minutes

The Minutes of the meeting held on 5 December 2012 were approved as a true and correct record and signed by the Chairman, subject to the inclusion of the following amendments:

Part 1, Item 10, page 2, paragraph 3: it was noted by the Chairman that 'fuel converted to tonnes of fuel' should read 'fuel converted to tonnes of Co₂'.

13. Declarations of Interest

There were no declarations of interest received.

14. Taxi Tariff 2013/14

The Committee considered a report (Agenda Item 4) concerning a request for an increase in the taxi tariff of approximately 2% for 2013/14. Brian Leahy introduced the report and informed the Committee that the Council's fees would be frozen for the next financial year rather than being increased by 2%. He also noted that in his report: point 4.8, page 12, '£146.9' should read '146.9p'.

(In accordance with paragraph 7.12.14 of the Council's Constitution, the Chairman proposed suspension of standing orders to allow Members of the trade to participate in the discussion and respond to questions Committee members might have. This was seconded by Councillor Mollie Lock and the Committee voted in favour of this proposal).

Mr Ashley Vass in addressing the Committee raised the following points:

- The trade was requesting a small rise in the Tariff; at a rate lower than inflation.
- Taxi insurance had risen by 12%; which was substantially higher than normal vehicles.
- The freeze on Council fees, although welcome, only accounted for 1% of the trade's overheads.
- They had been advised by Officers to ask for smaller rises, more often; rather than infrequent, larger rises.
- Fuel prices rose and fell, but continued on an upward curve.

LICENSING COMMITTEE - 20 MARCH 2013 - MINUTES

- West Berkshire was the 5th most expensive place to live in the country.
- The flag would remain unchanged, meaning the increase would be 15p on the average yardage.
- The Tariff was a 'maximum' and drivers would habitually discount longer journeys and fares for elderly passengers.
- He asked for all these factors to be taken into consideration by the Committee.

Councillor Jeff Beck inquired what percentage of the trade's overheads accounted for the cost of fuel; and as the predicted rise in fuel duty in September was now not going to occur, if this had been taken in their calculations. Mr Vass explained fuel was approximately 30-40% of the trade's overheads. He also confirmed that the predicted increase in duty had been included in the original calculation and though this was no longer a factor, fuel prices rose and fell across the year and across the district.

Councillor Tony Linden commented that current West Berkshire tariffs were on a reasonable par with other local authorities. Mr Vass concurred and noted that other towns were cheaper to live in.

Councillor Adrian Edwards asked for clarification as to whether the flag price of £2.80 was included in the average cost at 5 miles in Tariff 1 of £13.80 (page 11). Mr Vass confirmed that it was.

Councillor Quentin Webb remarked that although the positions of the local authorities in comparator table, on page 11 of the report, might change the differences between them would be relatively stable.

(The Chairman proposed reinstating standing order. The proposal was seconded by Councillor Lock.)

The Chairman asked Officers to clarify the origin of the comparator table. Brian Leahy explained that the figures for 340-360 local authorities were compiled on a monthly basis by a Taxi magazine in order to reach an average amount.

Councillor Geoff Mayes inquired as to where the Taxi fares listed on page 20 originated. Brian Leahy explained that this was produced by West Berkshire Council as a guide to customers as to the cost of a journey.

Councillor Webb proposed to reject the request for a rise in the Tariff as per Officer Recommendation, Councillor Manohar Gopal seconded this proposal.

Councillor Peter Argyle enquired if the proposal could return to Committee should there be a change in circumstances. Brian Leahy confirmed that it could.

Councillor Argyle remarked that the substantial rise in the cost of insurance should be taken into account. Brian Leahy commented that this data had not been provided by the trade in the formal request and had therefore not been considered by Officers.

Councillor David Holtby sought clarification as to when a taxi booked by phone, was able to begin charging. Brian Leahy explained that the cost of the journey / flag price was usually negotiated during the booking process.

Councillor Linden noted that inflation was +2% and was unlikely to decrease.

The Chairman asked Officers if the Committee was able to propose a different increase amount, for example, 1%. Brian Leahy confirmed that this was the case.

Councillor Paul Bryant queried the necessity of having a set tariff rate. Councillor Beck stated that the trade welcomed a 'maximum' as it prevented rogue operators.

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The Chairman asked the Committee to vote on the proposal to reject the request for an increase in the taxi tariff, as per Officer Recommendation.

The Committee voted four in favour and six against the proposal. The proposal was therefore refused.

Councillor Bryant proposed to go against Officer Recommendation and allow a rise in the taxi tariff. Councillor Argyle seconded this proposal.

At the vote, seven voted in favour and the vote was carried.

RESOLVED that the request for an increase in the taxi tariff be granted.

15. Taxi Roof Signs

The Committee considered a report (Agenda Item 5) that supplemented a report discussed by Members on 5 December 2012 regarding new Taxi roof signs. Brian Leahy introduced the report and drew the Committee's attention to the point that it would not be possible to dictate the position of the new signs on the vehicles roofs due to differences in vehicle design. He concluded that he was asking Members to confirm the decision they had made previously.

Councillor Jeff Beck informed the Members that this report had previously been approved during the open consultation period and there had been one challenge, which had since been verbally withdrawn. A report had therefore been commissioned, at the cost of the Council, to investigate how the signs would impact on fuel consumption.

Councillor Mollie Lock proposed the Committee accept the request from the trade to replace the current taxi roof signs with a new design. Councillor Tony Linden seconded.

Councillor David Holtby asked for assurance that the magnets used to attach the signs to the roofs would be robust enough. The Chairman confirmed that this point had been discussed on 5 December 2012 and the Committee had been satisfied that this was the case.

Councillor Adrian Edwards noted that the previous report had used imperial units of measurement, whereas the new report used metric units. He requested that any future reports should use imperial measurements and asked for a legal viewpoint. Sarah Clarke advised that this was probably an oversight made during the instruction process, but that it could be noted for any future action. She concluded that the purpose of the report had been to give an evidential basis on fuel consumption and that this had been achieved.

ACTION: Officers to ensure that any future commissioned reports, return findings in imperial units.

The Chairman invited the Committee to vote on the proposal to accept the request from the trade to replace the current taxi roof signs with a new design.

At the vote the proposal was unanimously approved.

RESOLVED that the Committee approve the request from the taxi trade to replace the current taxi roof signs with a new design.

16. Police Reform & Social Responsibility Act 2011 - Late Night Levy & Early Morning Restriction Order.

The Committee considered a report (Agenda Item 6) asking Members to decide whether to consult on adopting the Early Morning Restriction Order (EMRO) and Late Night Levy (LNL) or to await further Government guidance and maintain a watching brief on other local authorities. Julia O'Brien introduced the report.

LICENSING COMMITTEE - 20 MARCH 2013 - MINUTES

The Chairman stated that any final decision had to be made by Full Council. He clarified for the Committee that both an EMRO and an LNL could be introduced. An EMRO would take temporary effect at the request of Thames Valley Police (TVP). Any income generated by an LNL would be split with 70% going to TVP and the Police and Crime Commissioner (PCC); 30% going to West Berkshire Council. Brian Leahy had been in discussion with TVP and the PCC had delegated funds to the Local Superintendent, who in turn had delegated funds to the Crime Reduction Partnership, which was under the Council's control. Other measures were being undertaken to ensure anti-social crime was kept under control by the Business Improvement District (BID) and West Berkshire Council (WBC). He concluded that this decision could be returned to a future Committee for reconsideration.

Councillor Quentin Webb noted that the LNL gave decreasing returns and was probably meant for larger urban areas, which were not present in this district. He felt he would rather delay the decision and was aware that TVP might not have sufficient resources to enforce the measures if the Committee was minded to approve.

Councillor Paul Bryant reiterated Councillor Webb's points and continued that unless a problem arose, he could see no value in the consultation.

Councillor Jeff Beck brought to the Member's attention that funds raised from the LNL could be used towards funding Taxi Marshals or wet cleaning, for example.

Councillor David Holtby asked if the LNL could be imposed on one premise. Julia O'Brien explained that it would affect the whole district and was therefore not as flexible as an EMRO.

Councillor Adrian Edwards asked Officers which Levy band a nightclub would be in. Julia O'Brien answered that it would probably be band D or E. Councillor Edwards concluded that it seemed unreasonable that premises which caused the most problems, might not be charged the most levy and therefore the EMRO might be the preferable option.

Councillor Mollie Lock concurred with Councillor Webb that the Committee should wait until there was more Government guidance.

Councillor Geoff Mayes asked Officers where most problems occurred. Brian Leahy explained that incidents happened between 5-6am at 'all-night' pubs. However, crime and alcohol related crimes were declining across the Thames Valley, which was already one of the lowest in the country.

Councillor leaun Tuck queried if supermarkets would be covered by an EMRO. Julia O'Brien answered that they would be included and further suggested that an EMRO could be a useful tool. Currently, if TVP called a review of premises causing problems, the premises could apply to the Magistrates Court and continue trading.

Councillor Geoff Mayes asked when Government guidance was expected. Brian Leahy confirmed that the act was being introduced in June 2013 and therefore guidance would be expected approximately four months later.

Councillor Lock suggested that the decision be brought back to the December 2013 meeting.

Brian Leahy observed that other controlling mechanisms such as the 'Purple Flag' and 'Best Bar None' were ongoing and it would be useful to wait and see if these addressed the current situation.

Councillor Lock proposed that the decision to consult on the EMRO and LNL be postponed until the Committee meeting on 16 December 2013. Councillor Bryant seconded.

At the vote the proposal was unanimously approved.

LICENSING COMMITTEE - 20 MARCH 2013 - MINUTES

RESOLVED that the decision be brought back to the Committee at the meeting scheduled for 16 December 2013.

17. Police Reform & Social Responsibility Act 2011 - Change to Responsible Authority List.

To inform Members that the Licensing Authority had been included in the list of Responsible Authorities; as part of The Police Reform and Social Responsibility Act 2011.

(The meeting commenced at 6.30 pm and closed at 7.50 pm)

CHAIRMAN

Date of Signature

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DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

LICENSING COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY, 14 MAY 2013

Councillors Present: Peter Argyle, Jeff Beck, Paul Bryant, Adrian Edwards, Manohar Gopal, David Holtby, Tony Linden, Mollie Lock, Geoff Mayes, Ieuan Tuck, Quentin Webb and Laszlo Zverko

Apologies for inability to attend the meeting: Councillor Billy Drummond and Councillor Andrew Rowles

PART I

1. Election of Chairman

RESOLVED that Councillor Jeff Beck be elected Chairman of the Licensing Committee for the 2013/14 Municipal Year.

2. Apologies for Absence

Apologies for inability to attend the meeting were received on behalf of Councillors Andrew Rowles and Billy Drummond.

3. Appointment of Vice-Chairman

RESOLVED that Councillor Mollie Lock be appointed Vice-Chairman of the Licensing Committee for the 2013/14 Municipal Year.

(The meeting commenced at 8.11 pm and closed at 8.12 pm)

CHAIRMAN

Date of Signature

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Agenda Item 4.

Title of Report:	Licensing Act 2003
Report to be considered by:	Licensing
Date of Meeting:	26 September 2013
Forward Plan Ref:	n/a

Purpose of Report: To consider the updated and amended Licensing Policy Statement as required under the Licensing Act 2003 Part 2. 5. (1) (a) (b) and get agreement on it being sent out for consultation.

Recommended Action: To agree to the new version of the Licensing Policy and its release to the public for consultation.

Reason for decision to be taken: There have been some changes to the Licensing Act 2003 and the updated version of the policy statement needs to reflect these changes.

Other options considered: None

Key background documentation: The Licensing Act 2003.
Guidance issued under section 182 of the Licensing Act 2003.
DCMS Guidance.
Home Office Guidance.

The proposals contained in this report will help to achieve the following Council Strategy priorities:

- CSP1 – Caring for and protecting the vulnerable**
- CSP2 – Promoting a vibrant district**

The proposals will also help achieve the following Council Strategy principle:

- CSP7 - Empowering people and communities**

The proposals contained in this report will help to achieve the above Council Strategy priorities and principle by:

CSP1 - There are elements of the policy which aim to recognise vulnerable groups and ensure that they are protected from the impacts of excessive alcohol consumption.

CSP2 - There are elements of this policy which aim to encourage good business practices and ensure that there is reliable decision making when considering regulated entertainment.

CSP7 - The policy will protect the rights of the local community through their ability to keep the licensing trade accountable for their actions using representations.

Portfolio Member Details	
Name & Telephone No.:	Councillor Dominic Boeck - Tel (07956) 546506
E-mail Address:	dboeck@westberks.gov.uk

Date Portfolio Member agreed report:	17 September 2013.
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Contact Officer Details	
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Name:	Emilia Matheou
Job Title:	Licensing Officer
Tel. No.:	01635 519184
E-mail Address:	ematheou@westberks.gov.uk

Implications

- Policy:** The policy once adopted will be the document by which licensing decisions must be considered and no other.
- Financial:** There will be financial implications associated with the mailing, collation and consideration of comments received, as a result of the consultation. However, these are absorbed into the general administration budget for licensing.
- Personnel:** None
- Legal/Procurement:** This proposal accords with the requirements of the Licensing Act 2003
- Property:** None
- Risk Management:** None

Is this item relevant to equality?	Please tick relevant boxes		Yes	No
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>	<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The introduction of new legislation has impacted upon the way in which the Licensing Authority conducts its business.
- 1.2 The Licensing Authority must ensure that its policy is kept up to date and therefore the changes need to be reflected in a new version.
- 1.3 The policy will need to be circulated to representatives of current licence holders and statutory bodies.

2. Equalities Impact Assessment Outcomes

- 2.1 This item is not relevant to equality.

3. Conclusion

- 3.1 Officers do not believe there are any changes that should concern the Licensing Committee and that the adoption of this policy should not present any risk or financial impact on the authority.
- 3.2 The Committee should agree to the public consultation of the updated version at Appendix A.

Executive Report

1. Introduction

- 1.1 Section 5 of the Licensing Act 2003, as amended (“the 2003 Act”) requires a Licensing Authority to produce a Statement of Licensing Policy in respect of each five year period starting with the first appointed day 7th February 2005.
- 1.2 The statement of licensing policy and the guidance to the Act are the documents which the Licensing Sub Committees must have due regard to, in making decisions regarding applications for licences, variations to licences and deal with representations made against licences and which are subsequently reviewed.
- 1.3 Licensing Authorities were previously required to publish and review licensing policy statements every three years. This requirement was changed from three years to five years by amendments to the 2003 Act brought about by the Police Reform and Social Responsibility Act 2011 for any policies adopted after January 2011.
- 1.4 The Council adopted its first Licensing Policy Statement in December 2004 and was subsequently reviewed and re-adopted in 2007 and 2010. As the Council’s most recent policy was adopted prior to January 2011, it is required to be reviewed at this time.

2. Proposals

- 2.1 The draft policy attached at Appendix A contains suggested amendments to the existing Licensing Policy. All deletions, corrections and changes are shown in ‘red’, it is intended that this draft Licensing Policy, subject to consultation, will replace the current adopted Licensing Policy when finalised.

- (1) The amendments proposed to the policy relate to changes in legislation.
 - (a) The Live Music Act 2012 has exempted live music from the requirement to be licensed in certain circumstances and the policy has been amended to reflect this.
 - (b) In addition, the Police Reform and Social Responsibility Act 2011 made amendments to the 2003 Act, the main amendments are summarised below and the policy has been amended to reflect this.
 - (i) Introduced Licensing Authorities and Primary Care Trusts/Local Health Boards as responsible authorities;
 - (ii) removed the vicinity test in relation to the submission of relevant representations;
 - (iii) reduced the evidential burden on licensing authorities by changing the term necessary, used throughout the 2003 Act, to the term appropriate;
 - (iv) introduced the concept of late temporary event notices, extended those who can object to temporary event notices to include Environmental Health (in addition to the Police) and

extended the grounds upon which objections can be made to include all of the licensing objectives;

- 2.2 Introduced powers relating to Early Morning Restriction Orders and the Late Night Levy.

Appendices

Appendix A - Draft Licensing Policy Version 1

Consultees

Local Stakeholders: N/A

Officers Consulted: Brian Leahy - Team Manager Licensing, Julia Waymouth - Principal Licensing Officer, Paul Anstey - Joint Service Delivery Manager

Trade Union: None

Appendix A



Licensing Policy 2013

Adopted by Council 9th December 2010

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West Berkshire Council Licensing Policy

1. Definitions

- 1.1. The Council means West Berkshire District Council;
The Licensing Authority means the Council acting as defined by PART 2, 3[1][a] of the Licensing Act 2003. For all official correspondence, the address of the Licensing Authority is The Head of Culture And Environmental Protection, Environmental Health & Licensing, Council Offices, Market Street, Newbury, Berkshire RG14 5LD
- 1.2. All correspondence to be marked for the attention of the Senior Licensing Officer.
- 1.3. The Act means the Licensing Act 2003.
- 1.4. Licensing Committee means the full committee or a Sub-Committee of not less than three members.
- 1.5. 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. 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.
- 1.9. DCMS guidance means the current guidance, as amended, issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport .
- 1.10. SIA means the Security Industry Authority.

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2. Introduction

2.1. This Licensing Policy Statement addresses the requirements of section 5 of Part 2 of the Act. It sets out the Council's Licensing Policy and takes account of the DCMS, and Home Office guidance.

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2.2. This Policy is **not** intended to;

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 appropriate for a full understanding of the text;

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2.2.2. set out detailed conditions which, where appropriate, may be published separately and in a 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 the 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, street traders etc.

2.2.5. The Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely:-

2.2.6. **Retail sale of alcohol.**

2.2.7. **Supply of alcohol to club members.**

2.2.8. **Provision of 'Regulated Entertainment' – to the public, to club members or with a view to profit.**

2.2.9. **A performance of a play.**

2.2.10. **An exhibition of a film.**

2.2.11. **An indoor sporting event.**

2.2.12. **Boxing or wrestling entertainment.**

2.2.13. **A performance of live music.**

2.2.14. **Any playing of recorded music.**

2.2.15. **A performance of dance.**

2.2.16. **Provision of facilities for making music.**

2.2.17. Provision of facilities for dancing.

2.2.18 The supply of hot food and/or drink from any premises between 11pm & 5pm.

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2.2.19

Live unamplified music taking place between 08.00 hours and 23.00 hours and live amplified music taking place between 08.00 hours and 23.00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in workplaces is not regulated entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012

2.3. The scope of the Policy covers new licence and permit applications, renewals, transfers and variation of conditions for existing and where applicable, temporary licences. These licensing activities include Personal Licences, Licensed Premises, Qualifying Clubs and Temporary Events.

2.4 The Licensing Authority recognises its duty under the Act to carry out its functions with a view to promoting the four Licensing Objectives, and all decisions will be made solely based on the four objectives. These are :-

2.4.1 the prevention of crime and disorder;

2.4.2 public safety;

2.4.3 the prevention of public nuisance;

2.4.4 the protection of children from harm.

2.5 The Licensing Authority recognises the Act is not the primary mechanism for the general control of anti-social behaviour and nuisance by individuals once they are away from the premises and, therefore, beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. Nevertheless, it is a key aspect of such control and the Licensing Authority recognises that licensing law will always be part of a holistic approach to the management of the evening and night time economy in its area.

2.6 The Licensing Authority 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 Licensing Authority will pay particular attention when determining licences etc, to the Operating Schedules submitted by applicants. In so doing, the Licensing Authority 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 , appropriate guidance and such legislation as is applicable at the time 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.

2.7 The Licensing Authority recognises the contribution made by the leisure and entertainment industry to the economy and vibrancy of West Berkshire. The Licensing Authority 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 Licensing Authority recognises the obligations placed upon it by the Race Relations Act 1976 (RRA), as amended. A significant aspect of the RRA is the duty to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority will continue to meet its responsibilities in this respect and continue to be mindful of the RRA in discharging its licensing duties.

2.8 The Licensing Authority recognises the obligations placed upon it by the Disability Discrimination Act 1996 and will strive to ensure that it meets its responsibilities in all respects whilst discharging its functions at licensed premises.

2.9 The Licensing Authority has further considered other aspects of equality such as age, gender, religion or belief and sexual orientation and will strive to ensure that decisions taken by the Council will not openly, or covertly, discriminate against such groups or individuals.

3. Consultation on this Policy

3.1. The Council will review, and after consultation, re-publish its Licensing Policy at least once every ~~five~~ years. Whilst acknowledging this responsibility, the Council reserves the right to revise the Policy at more frequent intervals, should this be deemed appropriate.

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3.2. Before publishing any revised 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 Premise 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 any revised policy. 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 The powers of the Licensing Authority under the Act will be carried out via the Council's Licensing Committee, by a Sub-Committee of the Licensing 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 A 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.

- 4.2 When making licensing decisions and imposing licensing conditions, the Licensing Authority will concentrate on matters within the control of the licence holder and other granted relevant authorisations. Generally the Licensing Authority will be concerned only with the premises in question and its surrounding area. The Licensing Authority 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 determining applications for licences etc, the Licensing Authority

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will expect applicants to address, in their Operating Schedule, the measures they propose to take to prevent anti-social behaviour and crime and disorder, to protect the safety of the public. Where relevant, it should also include any impact on children of licensable activities whether those children are on, or in the area of, their premises.

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- 4.3 The Licensing Authority will expect individual applicants to address the Licensing Objectives in their Operating Schedule having regard to the type of premises and the licensable activities to be provided.
- 4.4 The Licensing Authority recommends that the Operating Schedule 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, although not within the scope of licensable activity;
 - 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 substances and weapons into the licensed premises.
 - 4.4.8 training to be given to staff in crime prevention measures and issues such as the prevention of excessive alcohol consumption and the protection of children;
 - 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 the Home Office;
 - 4.4.10 participation in Pubwatch, Best Bar None and the alcohol Action Group 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 customers in the surrounding area of the licensed premises;

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4.5 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.

4.6 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.

4.7 In determining licensing matters the Licensing Authority 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 a licence application for one of its own properties;

4.7.3 act in accordance with the principles of natural justice;

4.7.4 only impose conditions on a licence when a relevant representation has been made and conditions are appropriate in the particular circumstances of an individual premises and will not duplicate other statutory requirements.

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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 as far as reasonably practicable;

- 4.8.5 guidance to organisers and audiences in particular cases, or for particular types of events;
- 4.8.6 an appropriate system to receive related complaints and service requests;
- 4.8.7 elected members and officers who have regard to appropriate Codes of Conduct and Declaration of Interests in dealing with licensing applications;
- 4.9 The Council recognises there are personnel and financial implications linked to discharging its duties under the Act. Where the fees are unlikely to 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.
- 4.10 The Licensing Authority 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 Licensing Authority may return the application package by second class mail, to the sender, with an appropriate explanation. The Licensing Authority will also inform the applicant that any timescale applicable in the circumstances will only start when a properly made application is received.
- 4.10.1 If the applicant then returns the application package correctly made, any timescales will begin then, in accordance with the Regulations and the application will not be prioritised as if it had been received at the earlier time.
- 4.10.2 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.
- 4.10.3 Applications, notices and representations can be transmitted by electronic means generally in accordance with the Provision of Services Regulations 2009.
- 4.10.4 The Licensing Authority will inform Parish Councils, Town Councils and Elected Members of valid applications received within their areas of jurisdiction.
- 4.10.5 Generally applications etc received by the Licensing Authority will be processed in the order received. However, the Licensing Authority 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, earlier.

4.11 The quasi-judicial nature of the licensing process is such that elected members and officers of the Licensing Authority can offer only limited assistance at hearings. However, all applications and representations will be dealt with in an equal and considerate way. It is important therefore that those giving evidence either as applicants or objectors:

4.11.1 consider taking legal or other professional advice;

4.11.2 consider seeking the advice of the Licensing Authority or statutory bodies listed in annex B well before the hearing;

4.11.3 consult any advisory material produced by the Council or other informed sources and;

4.11.4 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 499 attendees at any one time, a Temporary Event Notice (TEN) must be served on the Licensing Authority, Environmental Health and the Police. For events which have 499 attendees or more, a Premises Licence will be required.

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5.2 The Licensing Authority advises organisers of Temporary Events to submit their Notice as soon as reasonably possible in order for the Police and Environmental Health to consider the event and for the Licensing Authority to check that the limitations set down in part 5 of the Act are being observed. The Licensing Authority recommends that at least two calendar months notification of an event is given.

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5.3 Although a standard notice is given no later than 10 working days before the event; and a late notice is given not before 9 and not later than 5 working days before the event, this may be insufficient time for the Police and / or environmental Health to consider the effects of the Notice. Notification two calendar months prior to the event will enable the Police and Environmental Health to work with the organiser, should the Police and/ or Environmental Health have concerns regarding the event undermining any of the licensing objectives.

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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 respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution and the building of temporary structures; of other appropriate 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.

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5.6 Event organisers are strongly advised to 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 as in Annex B.

5.7 Notification to the Police as referred to in Annex B.

5.8 Notification to the Team Manager - Environmental Quality in Annex B.

5.9 It is strongly recommended, although not mandatory, that the Fire Authority is consulted, as in Annex B.

5.10 In the event of a representation being made by the Police and /or Environmental Health, a hearing will be held and a decision given not later than 24 hours before the event is due to start.

6 Partnerships and Policy Integration

6.1. The Council recognises there is often a mistaken perception that West Berkshire Council 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 continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people, towards the promotion of the Licensing 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 engage a full range of measures, including crime and disorder policies and powers, as applicable, in the circumstances. The Licensing Authority will seek to enter into partnership arrangements, working closely with

the Police, the Fire Authority, local businesses, the Local Safeguarding Children Board/Area Child Protection Committee and the West Berkshire Safer Communities Partnership, community representatives and local people in meeting these objectives. The Council will seek, wherever possible, to integrate its various strategies including those addressing crime prevention, planning, transport, tourism, culture and race equality.

- 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;
 - 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, Responsible Authorities, any other persons such as local businesses or residents and elected members of council 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.
- 6.5. The Council recognises that a major contributor to the prevention of crime and anti-social behaviour is getting customers home at night when premises close. It will be a role of this Policy to ensure all transport providers are aware of this and that the Licensing Authority acknowledges their efforts. The Licensing Authority will, therefore, make arrangements to monitor the effectiveness of this Policy in relation to the Council's transport strategies. It will periodically liaise with major transport providers in the district, and monitor the dispersal of people from Town Centres, particularly at night.
- 6.6. The Council recognises that on occasions there will be conflicts between its other strategies.

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6.7. The Council will endeavour to make arrangements for its Licensing Committee to annually receive reports on:

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

6.7.2 public health aspects relating to the impact of alcohol consumption;

6.7.3 crime and disorder matters.

7. Each Application to be Determined on its Merits.

7.1 Whilst this Policy sets out the general approach for making licensing decisions, the Licensing Authority recognises that in determining individual cases, decisions must be consistent with both the provisions of the Act, its guidance 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.

7.2 The Licensing Authority 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. The Licensing Authority 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 and the licensing objectives.

7.3 The Licensing Authority recognises that in relation to applications for licences etc, its discretion is engaged only where relevant representations have been received. Therefore, all references in this policy to the Licensing Authority's approach to decision making concern cases where its discretion has been so engaged.

8 Licence Conditions

8.1.1 The Licensing Authority recognises its legal obligation whereby if no Relevant Representations are received; they must grant the licence/permit etc in the terms sought, with no additional conditions.

8.2 The Licensing Authority may;

8.2.1 publish, periodically review and update a pool of appropriate licence conditions;

8.2.2 prepare and publish guidance to licence applicants about the licensing scheme.

8.3 However, any conditions attached to any particular licence will:

8.3.1 always be tailored to the style and characteristics of the premises or event in question;

8.3.2 only be applied when needed for the prevailing circumstances and;

8.3.3 will only be applied when appropriate to help achieve the Licensing Objectives.

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8.4 The Licensing Authority 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 any other persons.

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8.5 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.

8.6 The Licensing Authority may impose conditions other than those consistent to the Operating Schedule or attached to the existing licence. However, they can do so only when Relevant Representations are made. For example, conditions may be attached requiring the provision or control of:

8.6.1 CCTV;

8.6.2 door staff

8.6.3 toughened glass or polycarbonate drinking glasses and restrictions on open bottles and glasses 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 Licensing Authority 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 Licensing Authority will try to avoid imposing substantial indirect costs which might deter live music, dancing or theatre.
- 8.8 The Licensing Authority recognises the wider community and cultural benefits which can accrue from the production of live music, dancing and theatre productions, including those for children. However, the local disturbance to neighbourhoods, particularly of open air events, will be carefully balanced against the community gain. Each event 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 representatives of performers and the National Association of Arts and may, where appropriate, review its policy.
- 8.10 The Licensing Authority recognises the important role played by premises not being overcrowded in helping to achieve the Licensing Objectives. The Licensing Authority will normally:
- 8.10.1 advise applicants for premises licences or applicants for club premises certificates to consider undertaking an appropriate assessment to determine the safe occupancy capacity and, where appropriate, to incorporate this in the operating schedule;
- 8.10.2 consider any proposals by the applicant for the capacity of the premises, and, if it considers it appropriate, will consider representations made by other bodies as listed in Annex B. The Licensing Authority will normally consider whether a condition relating to capacity is appropriate in order to promote either or both of the

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Public Safety and Crime Prevention Objectives. The Licensing Authority may decide to impose a capacity figure which differs from that proposed by the applicant;

- 8.10.3 seek to impose appropriate conditions, including the prevention of overcrowding, in premises used by children;
- 8.10.4 work closely with the Fire Service to ensure previously imposed limits noted on earlier fire certification, where in place, are still relevant and appropriate in the prevailing circumstances;
- 8.10.5 place considerable weight on the use of “during performance” inspections to determine safe numbers and ensure compliance with licence conditions,
- 8.11 In addressing the Licensing Objectives, the Licensing Authority recognises the significant role played by the combination of drugs and alcohol at some licensable events whilst acknowledging that drug abuse is not specifically addressed as a licensing objective. Accordingly the Licensing Authority may, in circumstances where representations have been made, impose licence conditions aimed at addressing these problems. In so doing, the Licensing Authority will consider:
 - 8.11.1 Appropriate guidance on the subject, for instance “Safer Clubbing” and other appropriate publications;
 - 8.11.2 the availability of free water;
 - 8.11.3 the provision of designated chill out areas;
 - 8.11.4 staff training in first aid to an appropriate standard and
 - 8.11.5 the provision of SIA licensed door supervisors.

9 Licensing Hours

- 9.1 The Licensing Authority 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 Licensing Authority will consider 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 Licensing Authority 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, and that such extended

opening hours are the prerogative of licence holders, they could be subject to challenge by local residents.

- 9.2. 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 Licensing Authority may limit the licensing hours following representations or review.
- 9.3. It is not the Licensing Authority'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 appropriate.
- 9.4. In general, the Licensing Authority 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.
- 9.5. The Licensing Authority will encourage applicants to anticipate exceptional conditions or events which could require special or extended trading times and to incorporate these in their Operating Schedule. Equally the Licensing Authority recognises the rights of Personal Licence holders to hold up to fifty Temporary Events each year, subject to the correct notification procedure and the statutory limitations of no more than twelve such events on any particular premises. Such notifications apart, the Licensing Authority is also aware of the Secretary of State's power to declare national, general extensions of licensing hours by order, for special events.
- 9.6. Generally, the Licensing Authority will consider proposed licensing hours submitted in applications for the sale and supply of alcohol and adjust these appropriately, according to Relevant Representations.
- 9.7. When setting licensing times, the Licensing Authority can only consider those factors directly relevant to the Act Consequently all other factors must be set aside. The Licensing Authority 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 Licensing Authority cannot refuse to grant opening hours solely because this would breach a

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worker's employment rights. Similar examples may arise in other areas outside employment law.

10. Cumulative Impact and Public Nuisance

10.1. The Licensing Authority recognises that from time to time it may receive representations on the grounds of cumulative impact of a number of licensed premises on the Licensing Objectives. In these circumstances the Licensing Authority will expect the objector to provide, in full, his or her own evidence for consideration.

10.2. The Licensing Authority recognises it may receive representations from either a Responsible Authority, or ~~any other person~~, both defined by the Act, that the cumulative impact of new licences is leading to an area becoming 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 Licensing Authority may consider the cumulative effect that such a proliferation of premises in one area may be having.

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10.3. In determining whether to adopt a cumulative impact policy for a particular area the Licensing Authority 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 special policy about future applications for premises within that area. Such a policy would be one of refusing licences whenever it receives Relevant Representations about the cumulative impact on the Licensing Objectives these must be from Responsible Authorities and/or ~~any other persons~~. The Licensing Authority may conclude after hearing those representations, that a refusal may be ~~appropriate~~.

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10.4. If the Council establishes a special policy for a particular area, it will review that policy regularly and at least once every ~~five~~ years. It will not use such a policy to:

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10.4.1. revoke an individual premises licence that is already in force;

10.4.2. vary a licence except when directly relevant to the policy and when appropriate for the promotion of the Licensing Objectives or;

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10.4.3. impose a terminal hour as a matter of policy, although a terminal hour may be imposed if such is appropriate in order to promote the Licensing Objectives.

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11. Children and Licensed Premises

11.1 The Licensing Authority recognises the wide variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, night-clubs, cafes, takeaways, 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, or must not be admitted to licensed premises. Beyond the statutory controls, the Licensing Authority will not normally further control entry to licensed premises by children unless it considers this to be appropriate 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.

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11.2 Licence holders are not to provide alcohol to those under 18 years of age, except as provided for by the Act. The Licensing Authority 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 Photo card Driving Licence issued in the European Union;

11.2.3 Proof of Age Card Scheme e.g. 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 When appropriate representations have been made, the Licensing Authority may, where it deems appropriate, impose conditions to restrict entry to children in premises for example;

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11.3.1 where entertainment or services of an adult or sexual nature are commonly provided;

11.3.2 where there have been convictions or the issue of fixed penalty notices 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 there have been convictions of any member of staff leading to registration under the Protection of Children Act.
- 11.4 When the Licensing Authority considers restricting access by those under 18 this may mean a broad prohibition. However, depending on the circumstances, the Licensing Authority 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 appropriate to achieve the Licensing Objectives.
- 11.5 The Licensing Authority recognises that licensees may wish to control entry to children, but regards this trade decision. The Licensing Authority will not, therefore, impose conditions requiring the admission of children to licensed premises. So therefore, if a licence holder decides to prohibit entry by children and the Licensing Authority has chosen not to restrict entry, then the Licensing Authority will respect that decision. Such a decision by a licence holder might give rise to human rights issues beyond the remit of the Council acting under its licensing powers.
- 11.6 Only where representations are made can the Licensing Authority consider imposing conditions to control the safe access and egress of children and generally ensure their safety. However, applicants are advised to consider child supervision/control in their Operating Schedule. In imposing such conditions referred to above, the Licensing Authority may draw up appropriate conditions for the number of supervising adults required.

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12. Film Exhibitions

- 12.1. Where the exhibition of films is permitted, the Licensing Authority will require age restrictions to be complied with; Mandatory conditions will be attached to all Licences in this respect in accordance with the British Board of Film Classifications recommendations for the film in question.

13. The Planning System

- 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 planning roles.
- 13.2. In considering a licence application, the Licensing Authority cannot generally take account of “need”.
- 13.3. The Council’s Licensing Committee will periodically draw to the attention of the Council’s Planning Committee, the situation regarding licensed premises and the general impact of alcohol related crime and disorder.

14. Enforcement

- 14.1. Where enforcement action is appropriate, the Council will act in accordance with its published Enforcement Policy, which in turn is based on the principles of the Enforcement Concordat. Deleted: necessary
- 14.2. The Licensing Authority will establish protocols with the local Police and Fire Service on enforcement issues to provide an efficient deployment of those 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 Licensing Authority believes that to maintain trade, public and partners’ confidence in the licensing regime, it needs to establish an active inspection and regulatory service. The Licensing Authority will therefore, in combination with the Police and other partnership organisations, actively engage in seeking to:
 - 14.3.1. advise licence holders and potential licence holders to prevent problems arising;
 - 14.3.2. inspect premises both before and during their use under the Act;
 - 14.3.3. when appropriate, institute legal actions including issuing formal cautions and taking prosecutions. Deleted: necessary

14.4. The Licensing Authority will actively enforce, alone or in partnership, all breaches of the licence conditions under the Act. 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 Licensing Authority reserves the right to introduce a penalty points or similar scheme intended to provide a cumulative score for one or more minor infringements of licence conditions. This may lead to the Licensing Authority instituting legal proceedings against the licence holder. This process is independent of the licence review by any other person or Responsible Authority. The introduction of any scheme will only supplement any decisions concerning enforcement or legal actions and will not replace other legal powers and duties.

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14.6 Early Morning Restriction Orders (EMROs)

The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 12 midnight and 6am. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of the West Berkshire Council area, however, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between 12 midnight and 6am is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about it's proposal in accordance with legislation and national guidance.

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15. End of Licensing Policy

ANNEX A

DELEGATION OF LICENSING FUNCTIONS

Matter to be dealt with	Determined by Committee	Delegated to Officers
Application for Personal Licence	If a representation is made by the Police	If no representation is made by the Police
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 Authority	If a Police representation made	All other cases
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 representation to a Temporary Event Notice	<u>All cases</u>	Deleted: Police
<u>Determination of minor variation application</u>		<u>All cases</u>
<u>Decision whether to consider other responsible authorities on minor variation application</u>		<u>All cases</u>

Determination of application to vary premises licence at community premises to include alternative licence condition

If a Police representation made

All other cases

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Annex B

Responsible Authority	Point of Contact
The Licensing Authority	<p><u>Team Manager Licensing</u> West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD licensing@westberks.gov.uk</p>
The Chief Officer of Police	<p>Licensing, Thames Valley Police, Headquarters (South), Kidlington, Oxfordshire, OX5 2NX licensing@thamesvalley.pnn.police.uk</p>
The Fire Authority	<p>The Fire Safety Officer, Royal Berkshire Fire & Rescue Service, Hawthorn Road, Newbury, Berkshire, RG14 1LD NewburyFireSafety@rbfrs.co.uk</p>
The Enforcing Authority for Health & Safety at Work Act 1974	<p><u>Team Manager - Commercial</u> <u>West Berkshire District Council, Council Offices,</u> <u>Market Street, Newbury, Berkshire, RG14 5LD</u></p> <p>For all Council owned or operated premises and those others where the Health & Safety Executive is the Enforcing Authority Principal Inspector Mr Bob Meldrum, Health & Safety Executive, Priestly House, Priestly Road, Basingstoke, Hampshire RG24 9NW</p>
The Local Planning Authority Town and Country Planning Act 1990 (c.8)	<p>Development Control Manager, West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD</p>
The Enforcing Authority for Pollution	<p><u>Team Manager - Environmental Quality,</u> West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD</p>
Trading Standards Office	<p>Principal Trading Standards Officer, West Berkshire Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD</p>

<p>Public Health and Wellbeing Local Safeguarding Children Board</p>	<p>Ian Wootton Commissioning Manager (Substance Misuse) Public Health and Wellbeing West Berkshire Council, Market Street Newbury RG14 5LD iwootton@westberks.gov.uk</p>
<p>In relation to a Vessel – A Navigation Authority British Waterways Board or The Secretary of State</p>	<p>British Waterways Board, Harbour House, West Quay, The Dock, Gloucester GL1 2LG. Tourism Division, 3rd Floor, 2-4 Cockspur Street, London SW1Y 5DH</p>
<p>The Environment Agency</p>	<p>Responsible Officer Isis House, Wallingford, Oxfordshire OX10 8BD</p>