

Title of Report:	Licensing Act 2003
Report to be considered by:	Licensing
Date of Meeting:	01 September 2010
Forward Plan Ref:	

Purpose of Report: To approve the Council's Licensing Policy for the three year period commencing January 2011

Recommended Action: To approve the Policy

Reason for decision to be taken: Mandatory requirement

Other options considered: None

Key background documentation: West Berkshire District Council Licensing Policy dated 11th December 2007

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO₂ emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 achieving a balance between the need to licence premises for the sale of alcohol, entertainment and the provision of late night food and drink whilst making consideration for residents of West Berkshire to engage with the Council on licensing matters covered by the Licensing Act 2003.

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Date Portfolio Member agreed report:	01 September 2010

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Implications

Policy: The Council must have a Statement of Licensing Policy in accordance with the requirements of the Licensing Act 2003.

Financial: If there are any financial implications contained within this report this section **must** be signed off by a West Berkshire Group Accountant. Please note that the report cannot be accepted by Policy and Communication unless this action has been undertaken.

Personnel: None:

Legal/Procurement: Mandatory requirement.

Property: None

Risk Management: None

Equalities Impact Assessment: None
 For advice please contact Principal Policy Officer (Equalities) on Ext. 2441.

Corporate Board's View: to be completed after the Corporate Board meeting

NOTE: The section below does not need to be completed if your report will not progress beyond Corporate or Management Board.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input checked="" type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	

Delays in implementation could compromise the Council's position	<input checked="" type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input checked="" type="checkbox"/>

Executive Report

1. Introduction

- 1.1 Under section 5 of the Licensing Act 2003 the Council are required to review their Statement of Licensing Policy at least every three years, following the introduction of the initial policy in 2004.
- 1.2 The current policy was approved on 11th December 2007 by Full Council and is now required to be reviewed and confirmed by Full Council prior to being published by 14th December 2010.
- 1.3 Letters of consultation have been sent to interested parties asking for comments on the relatively unchanged policy for the next three year period.
- 1.4 The end of the 12 week consultation period ends on the 30th September 2010. Thus far only one response has been received which compliments the council upon its policy statement. This was received from the Musicians Union.
- 1.5 Officers are confident that few, if any, further responses will be received during September which will require any further changes than those already made in order to tidy up the policy and make minor changes in contact details.
- 1.6 For clarity the revised policy document has been printed with all changes shown highlighted in red.

2. Proposal

- 2.1 Members are asked to approve the revised Licensing Policy Statement as presented.
- 2.2 In the event that changes are requested, officers believe that they will be minor and suggest that these minor changes could be approved by the chair of this committee in order that the report can proceed through the democratic process.

Appendices

Appendix A – Revised Statement of Licensing Policy

Appendix B – Current Statement of Licensing Policy

Local takeholders: Residents of West Berkshire, Relevant businesses in West Berkshire



Licensing Policy

Adopted at full council meeting held on ? 2010

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West Berkshire Council Licensing Policy

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. For all official correspondence, the address of the Licensing Authority is The Head of **Property & Public Protection**, Council Offices, Faraday Road, Newbury, Berkshire, RG14 2AF. 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.
- 1.6. DCMS means the central government Department of Culture, Media and Sport.
- 1.7. Zoning means to control licensing hours in a defined geographical area.
- 1.8. 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.

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 guidance.
- 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 necessary for a full understanding of the text;
- 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.**

- 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 recognises that, in general, the West Berkshire area has relatively few major difficulties linked to the consumption of alcohol. However, 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.**

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 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 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 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 vicinity. 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 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 vicinity of, their premises.

- 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** 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 vicinity of the licensed premises;
 - 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 necessary in the particular circumstances of an individual premises and will 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 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 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 500 attendees at any one time, a Temporary Event Notice (TEN) must be served on the Licensing Authority and the Police. For events which have 500 attendees or more, a Premises Licence will be required.

5.2 The Licensing Authority 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 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. Although notification cannot be less than 10 working days before the event not counting the day of the event, this may be insufficient time for the Police to consider the effects of the Notice. Notification two calendar months prior to the event will enable the Police to work with the organiser, should the Police have concerns **regarding the event undermining the crime prevention objective.**

5.3 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.

- 5.4 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 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.
- 5.5 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.
- 5.6 Notification to the Police as referred to in Annex B.
- 5.7 It is strongly recommended, **although not mandatory**, that the Fire Authority are consulted, as in Annex B.
- 5.8 In the event of a representation being made by the Police, 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, interested parties** such as 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.
- 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.

- 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 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 necessary to help achieve the Licensing Objectives.
- 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 Interested Parties.
- 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 necessary, 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 necessary in order to promote either or both of the 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 necessary.
- 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 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 an Interested Party, 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.
- 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 Interested Parties. The Licensing Authority may conclude after hearing those representations, that a refusal may be necessary.

- 10.4. If the Council establishes a special 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 licence that is already in force;
 - 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 as a matter of policy, although a terminal hour may be imposed if such is necessary in order to promote the Licensing Objectives.

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 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 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 Photocard Driving Licence issued in the European Union;
 - 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 When appropriate representations have been made, the Licensing Authority may, where it deems necessary, impose conditions to restrict entry to children in premises for example;
- 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 necessary to achieve the Licensing Objectives.
- 11.5 The Licensing Authority recognises that licensees may wish to control entry to children, but regards this a 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.

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 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 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 necessary, institute legal actions including issuing formal cautions and taking prosecutions.
- 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 Interested Party 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.

15. End of Licensing Policy

ANNEX A

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 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 Police representation to a Temporary Event Notice	All cases	

Annex B

Responsible Authority

Point of Contact

The Licensing Authority	Senior Licensing Officer, West Berkshire Council, Public Protection Department, Council Offices, Faraday Road, Newbury, Berkshire, RG14 2AF licensing@westberks.gov.uk
The Chief Officer of Police	Licensing Officer, Thames Valley Police, Mill Lane, Newbury, Berkshire. RG14 5QU
The Fire Authority	The Fire Safety Officer, Royal Berkshire Fire & Rescue Service, Hawthorn Road, Newbury, Berkshire, RG14 1LD NewburyFireSafety@rbfr.co.uk
The Enforcing Authority for Health & Safety at Work Act 1974	Principal Public Protection Officer (Health & Safety Enforcement) West Berkshire District Council, Council Offices, Faraday Road, Newbury, Berkshire, RG14 2AF 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
The Local Planning Authority Town and Country Planning Act 1990 (c.8)	Development Control Manager, West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
The Enforcing Authority for Pollution	Principal Public Protection Officer for Pollution West Berkshire District Council, Council Offices, Faraday Road, Newbury, Berkshire. RG14 2AF

Children Services – Safeguarding Board Chair	Sarah Lewis, Referral & Assessment Team Manager, West Berkshire District Council, West Street House, West Street, Newbury, RG14 1BD
Trading Standards Office	Principal Trading Standards Officer West Berkshire Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
In relation to a Vessel - A Navigation Authority British Waterways Board or The Secretary of State	Planner Officer, Mr Colin Blundel, British Waterways Board, Harbour House, West Quay, The Dock, Gloucester. GL1 2LG. Tourism Division, 3 rd Floor, 2-4 Cockspur Street, London. SW1Y 5DH
The Environment Agency	Responsible Officer Isis House, Wallingford, Oxfordshire. OX10 8BD

APPENDIX B