



## RUSHMOOR BOROUGH COUNCIL

### LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

*at the Council Offices, Farnborough on  
Monday, 24th September, 2018 at 7.00 pm*

**To:**

Cllr J.E. Woolley (Chairman)  
Cllr Jacqui Vosper (Vice-Chairman)

Cllr Sue Carter  
Cllr M.S. Choudhary  
Cllr A.K. Chowdhury  
Cllr Liz Corps  
Cllr A.H. Crawford  
Cllr A.J. Halstead  
Cllr B. Jones  
Cllr Marina Munro  
Cllr M.D. Smith

Enquiries regarding this agenda should be referred to the Committee Administrator,  
Kathy Flatt, Democratic and Customer Services, Tel. (01252 398829) or email  
[kathy.flatt@rushmoor.gov.uk](mailto:kathy.flatt@rushmoor.gov.uk).

# **A G E N D A**

1. **MINUTES – (Pages 1 - 6)**

To confirm the Minutes of the Meeting held on 30th July, 2018 (copy attached).

2. **ANNUAL AUDIT LETTER –**

To consider the Annual Audit Letter for the year ended 31st March 2018 (copy to follow). Representatives from Ernst & Young will be in attendance at the meeting.

3. **CONSULTATION ON PROPOSED REVISION TO THE COUNCIL'S STATEMENT OF LICENSING POLICY – (Pages 7 - 98)**

As part of the consultation process, to consider the Head of Environmental Health and Housing Services' Report No. EHH1824 (copy attached) setting out the revised policy and to make comments or recommendations for report to and consideration by the Cabinet for determination.

4. **FEES AND CHARGES (ANIMAL WELFARE LICENSING AND SKIN PIERCING REGISTRATION) – (Pages 99 - 102)**

To consider the Head of Environmental Health and Housing's Report No. EHH1825 (copy attached), which seeks approval for revised fees for animal welfare licensing and skin piercing registration provided by the Environmental Health Service.

5. **APPOINTMENT OF INTERIM EXECUTIVE HEAD OF FINANCE –**

Following the resignation of the previous Executive Head of Finance, arrangements were put in place to appoint an interim Head of Service given the need for a Statutory Section 151 Officer and to deal with the process of preparing the budget, the Committee is asked to confirm the urgent action taken by the Chief Executive, in conjunction with the Chairman, to appoint Mr Peter Timmins to the role.

## **PUBLIC PARTICIPATION AT MEETINGS**

Members of the public may ask to speak at the meeting on any of the items on the agenda by writing to the Committee Administrator at the Council Offices, Farnborough by 5.00 pm three working days prior to the meeting.

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# LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

Meeting held on Monday, 30th July, 2018 at the Council Offices, Farnborough at 7.00 pm.

## **Voting Members**

Cllr J.E. Woolley (Chairman)  
Cllr Jacqui Vosper (Vice-Chairman)

Cllr M.S. Choudhary  
Cllr A.K. Chowdhury  
Cllr Liz Corps  
Cllr A.H. Crawford  
Cllr A.J. Halstead  
Cllr B. Jones  
Cllr M.D. Smith

Apologies for absence were submitted on behalf of Cllr Sue Carter and Cllr Marina Munro.

## **9. MINUTES**

The Minutes of the Meeting held on 30th July, 2018 were approved and signed by the Chairman.

## **10. CONSULTATION ON PROPOSED VARIATION TO THE SCHEME OF HACKNEY CARRIAGE FARES**

The Committee considered the Head of Environmental Health and Housing's Report No. EHH1820, which outlined proposals to vary the current scheme of hackney carriage fares. The proposals had received provisional approval from the Cabinet and had been published for consultation with the last date for representations and comments being 31st July 2018. Given the role and responsibilities of the Committee, its views were being sought on any proposed change to the scheme of fares. It was noted that, should there be no representations or objections to the proposals, the proposed scheme would be introduced from 1st September, 2018. However, if there were significant objections to the proposals, these would have to be taken back to the Cabinet for consideration.

The Report set out the proposed variations, including a direct uplift to the pull-off charges and the consolidation of the night time and Bank Holiday rates, which had been submitted by the taxi trade. The trade was also proposing to present charges at time, time and a half, and double time across meter rates 1, 3 and 4 and sought to apply a £1 flat fee for each of the current extra charges. The trade was also suggesting that there should be a general policy that all hackney carriages must accept credit or debit card payments. However, as the mandatory provision of credit/debit card payment facilities would represent a change to current policy, this

specific matter had been deferred from the public consultation pending a review of the Council's taxi licensing policy.

The Report set out the implications of the proposals, together with a comparison of benchmark taxi journeys and the legal and equality impact implications. It was noted that the Council's taxi licensing policy specified that the Council should undertake an annual review of taxi fares. Whilst subject to an approved methodology, the taxi trade had submitted its own proposals for consideration. The proposals for variation had to be subject to public consultation and, where appropriate, all representations and comments would be taken back to the Cabinet for consideration before determination. By law, any advertised proposal would automatically take effect in the event that it did not attract any significant representations or comments. It was therefore proposed that any revised scheme would take effect from 1st September, 2018.

During discussion, Members raised questions regarding credit card payments and the ability to negotiate fares payable on journeys outside of the Borough.

**RESOLVED:** That the Cabinet be advised of the Committee's support of the proposals set out in the Head of Environmental Health and Housing's Report No. EHH1820.

**NOTE:** Cllr M.S. Choudhary declared a prejudicial interest in this item in respect of his profession and, in accordance with the Members' Code of Conduct, left the meeting during the discussion and voting thereon.

## 11. **PERFORMANCE MONITORING PROCESS**

The Head of Democracy, Strategy and Partnerships gave a presentation on performance management arrangements in Rushmoor. It was noted that the Council Plan was currently prepared on an annual basis, although an assessment was being made whether to move to a 3-5 year timespan with annual updates. The framework of the Council Plan was drafted around the ethos of Listen, Learn, Deliver Better. There were four themes within the current Plan with 32 priorities and a number of specific plans for major programmes (e.g. Rushmoor 2020 and Regenerating Rushmoor). Consultation took place with residents about the Council's actions and priorities and this information was used to inform the work of updating the Plan, the process for which commenced in early Autumn each year.

The Committee was advised of the principles, processes and structure of the performance management framework, which culminated in the production of a quarterly monitoring document, which was reviewed by service managers, Directors, Cabinet Members and the Overview and Scrutiny Committee. It was also noted that, as part of this process, it was important to consider financial and delivery performance as well as the completion of objectives.

Some performance data was focused in particular areas and portfolio dashboards were currently being trialled. In addition, quarterly health and safety reports were being produced around how the Council was performing. Exception reports were produced which were considered by the Cabinet and Corporate Leadership Team in

addition to the Overview and Scrutiny Committee. It was felt that the current process provided more up-to-date and accurate information and had contributed to the development of a more robust business plan process.

The role of the Committee in the performance monitoring process was to consider the governance issues involved. Namely, that the Council had an effective performance system overall with the necessary controls and checks in place and at the same time monitoring trends. It was the intention to present an annual report to the Committee showing how processes had worked and the overall performance of the Council from the previous year. The Committee's role would be to monitor the delivery of outcomes and whether the system was fit for purpose.

During discussion, a question was raised regarding access by residents of the performance management information.

**RESOLVED:** That the presentation by the Head of Democracy, Strategy and Partnerships be noted.

## 12. **STATEMENT OF ACCOUNTS 2017/18, LETTER OF REPRESENTATION 2017/18 AND AUDIT RESULTS REPORT 2017/18**

The Committee considered the Executive Head of Finance's Report No. FIN1822, which sought approval of the Council's Statement of Accounts for 2017/18 and set out the findings of the Council's auditors, Ernst & Young, in carrying out their audit work in relation to the 2017/18 financial year.

The Committee was advised that the Statement of Accounts had been prepared in line with CIPFA's Code of Practice on Local Authority Accounting for 2017/18, under International Financial Reporting Standards and in accordance with the Accounts and Audit (England) Regulations 2015. The Regulations required the Committee to consider and approve the Statement and to ensure that the Chairman signed them off and for the Statement to be published by 31st July 2018. The Committee was also advised that the Council's Annual Governance Statement, which had been approved by the Committee in May 2018, would be published alongside the Statement of Accounts.

The Report then set out the Council's draft letter of representation to the auditors, as part of the annual audit process. The letter was an important factor in enabling the auditors to form an opinion as to whether the Statement of Accounts provided a true and fair view of the financial position of the Council.

The auditors had substantially completed their audit for 2017/18 and their conclusions were set out in the Audit Results Report, attached at Appendix C to the Report. Ernst & Young had reported that it anticipated issuing an unqualified opinion on the financial statements and that the Council had made proper arrangements to secure economy, efficiency and effectiveness in the use of resources.

Members' attention was drawn to the Audit Results Report which outlined a single unadjusted audit difference of £426,487 which related to the Council's share of the variance between the estimated fair value of the £6,582,000 Hampshire Pension

Fund assets and the actual fair value of the fund assets at 31st March 2018, which had been found to be higher at £6,613,000. Details of the unadjusted audit difference was set out in the Management Representation Letter, set out in Appendix B to the Report. The Council had not corrected the difference because it was a timing difference based on information available from the Council's actuaries at the time of compiling the statements and was an estimate of the position at the year end. There was no material effect on the accounts, given that the materiality level had been set at £994,000.

**RESOLVED:** That

- (i) the Auditor's Audit Results Report be noted;
- (ii) the financial statements for 2017/18 be approved;
- (iii) the letter of representation be approved; and
- (iv) the Chairman be authorised to sign the Statement of Accounts 2017/18 to certify the Committee's approval

#### 13. **ANNUAL AUDIT 2018/19 - FEES**

The Committee received a letter from the Council's auditor, Ernst & Young, regarding the annual audit 2018/19. It was noted that the indicative audit fee for 2018/19 was £38,375 and that this fee did not cover the certification of the 2018/19 housing benefit subsidy claim. The letter also advised that it was expected that the Audit Plan would be issued in December 2018.

**RESOLVED:** That the auditor's annual audit 2018/19 letter, setting out an indicative audit fee for 2018/19, be noted.

#### 14. **INTERNAL AUDIT UPDATE**

The Committee received the Audit Manager's Report No. AUD1804 which provided an overview of the work completed for quarter 1 and an update to the proposed work to be delivered for quarter 2. The expected deliverables for quarters 2 and 3 were as follows:

- Audit Charter (Internal Audit)
- Capital Programme – Depot (Finance)
- Weekly refuse and recycling contract (Community)
- Contaminated water review (Finance)
- GDPR review (Corporate Leadership Team)
- IT access controls (IT)
- Contract management (Finance)
- Corporate governance (Corporate Leadership Team)
- Parking machine income follow up (Community)
- Benefits (Finance)

- Recovery (Finance)
- Sales Ledger (Finance)
- Risk management (Corporate Leadership Team)
- Cyber security follow up (IT)
- Transparency Code follow up (Corporate Leadership Team)
- Car payments follow up (Finance)

**RESOLVED:** That

- (i) the Audit Manager's Report No. AUD1804 in respect of work carried out in quarter 1 and the update to expected deliverables for quarter 2 be noted; and
- (ii) the expected deliverables for quarter 3 be endorsed.

**15. TREASURY MANAGEMENT OPERATIONS 2017/18**

The Committee received the Executive Head of Finance's Report No. FIN1823, which gave details of the treasury management operations for 2017/18, an update on future changes to treasury management principles and schedules and a summary of changes in capital expenditure.

**RESOLVED:** That the Executive Head of Finance's Report No. FIN1823 be noted.

**16. APPOINTMENT OF EXTERNAL AUDITOR - HOUSING BENEFIT SUBSIDY CLAIM**

The Committee considered the Executive Head of Finance's Report No. FIN1824, which provided an update on the process undertaken to procure external audit services for the Council's Housing Benefit Subsidy claim for the year 2018/19.

Following the demise of the Audit Commission, new arrangements had been put in place for the appointment of external auditors. The Council had opted in to the appointing person regime, allowing Public Sector Audit Appointments Limited to carry out a sector-wide procurement exercise. These arrangements, however, only covered the core audit work in relation to the annual statement of accounts and the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources. The Council was required to make its own arrangements for the audit of the Housing Benefit Subsidy Claim in line with the requirements of the Department of Work and Pensions. In the absence of a sector-wide procurement option, Chief Finance Officers across Hampshire and the Isle of Wight had considered a collaborative approach in order to maximise benefit from the procurement process. Following a tendering exercise, KPMG had been identified as the preferred supplier. The Committee was advised that the fixed price for authorities without a Housing Revenue Account, such as Rushmoor, was £7,995 with additional work charged at £71 per hour. A variant bid had also been stated, which allowed authorities to choose to undertake initial sampling in-house. The fixed price for this was £3,995. The planned fee for housing benefit subsidy assurance for Rushmoor for 2017/18 was £8,652 under the existing arrangements with Ernst & Young LLP.

Members were advised that, whilst the exercise had resulted in a marginal saving for Rushmoor, it was important to demonstrate that the Council had followed due process in the procurement of auditors for the Housing Benefit Subsidy claim, given the significant figures involved in the subsidy (approximately £39 million) and the potential loss of subsidy if the Council was found not to be administering its Housing Benefit claims correctly, including the consequential effect on residents.

**RESOLVED:** That the approach outlined in the Executive Head of Finance's Report No. FIN1824 for the appointment of external auditors for the Housing Benefit Subsidy claim be endorsed.

The meeting closed at 8.25 pm.

CLLR J.E. WOOLLEY (CHAIRMAN)

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**LICENSING AUDIT & GENERAL  
PURPOSES COMMITTEE**

24 SEPTEMBER 2018

**HEAD OF ENVIRONMENTAL  
HEALTH & HOUSING SERVICES  
REPORT NO. EHH1824****CONSULTATION ON PROPOSED REVISION TO THE COUNCIL'S  
STATEMENT OF LICENSING POLICY****SUMMARY AND RECOMMENDATIONS:**

Under the Licensing Act 2003, the Council is obliged to prepare and publish a statement of licensing policy. Following various legislative changes and a review, a number of changes to the Council's licensing policy are proposed to ensure that it is current and up-to-date.

Following consideration by Cabinet, the revised licensing policy has been approved to go out to public consultation. The Committee is requested to consider the revised policy and, as part of the consultation process, make comments or recommendations for report to and consideration by Cabinet on determination as may be appropriate. A copy of the revised policy is attached at **appendix A**.

**1. BACKGROUND & INTRODUCTION**

- 1.1 The Licensing Act 2003 (the Act) regulates the sale and supply of alcohol, the provision of late night refreshment and a wide range of entertainments. Licensable activities are regulated through a personal and premises licence regime administered and enforced by the Council's Licensing team.
- 1.2 As a Licensing Authority under the Act, the Council is obliged to prepare and publish a statement of licensing policy every five years and to keep it under review. Whilst subject to statutory consultation requirements, this sets out the policies and arrangements the Council will apply and consider in exercise of its functions; particularly when making decisions on relevant licence applications and authorisations established under the Act.
- 1.3 The Council's current licensing policy was last reviewed in 2010. Whilst tailored to reflect local circumstances and guidance, this was itself developed from a framework policy prepared by the Hampshire & Isle of Wight Licensing Officers' Group in 2005.
- 1.4 Since this time, a number of legislative changes and changes to associated guidance issued by the Secretary of State have been published. Collectively, these factors have prompted a review of the Council's licensing policy. Consequently, a revised policy has been prepared which has been approved by Cabinet for public consultation. The last date for comments and representations for the consultation is given as the **19<sup>th</sup> October**. A copy of the revised policy is attached at **appendix A**.

- 1.5 Given its licensing role and responsibilities, the views of the Licensing & General Purposes Committee are sought on the proposed policy. Accordingly, the Committee is requested to consider the revised policy and make any comments or recommendations for report to and consideration by Cabinet as may be appropriate.

## **2. DETAILS OF THE PROPOSAL**

### **General**

- 2.1 The majority of proposed policy changes are made on the basis of legislative updates since the policy was last reviewed. An overview of these, together with other key issues and amendments are outlined below.

### **Legislative updates**

- 2.2 Since the policy was last reviewed the Licensing Act 2003 has been amended and/or supplemented by various legislative provisions. The policy has, where appropriate, been updated to reflect these changes as follows.

(a) **The Police Reform and Social Responsibility Act 2011**; including -

- (i) Changes to make the Licensing Authority and the local Health Board a responsible authority under the Act and enable them to make representations and/or apply for review of licences.
- (ii) The removal of the vicinity test so that any person who wants to make representations about or apply for review of relevant licences and applications can do so no matter where they live or work.
- (iii) Reduction of the evidential burden of representations from 'necessary' to 'appropriate' to promote the licensing objectives.
- (iv) Changes to the temporary event notice (TEN) arrangements; including –
  - The introduction of late TENs (i.e. TENs that can be served up to 5 days before a temporary event);
  - Changes to the TEN statutory limits (increasing the duration of each TEN from 48 hours to 168 hours);
  - Including Environmental Health as a responsible authority that, together with the police, can make representations to TENs;
  - Allowing the imposition of conditions to TENs in certain circumstances.
- (v) The suspension of premises based authorisations for failing to pay statutory annual fees.

- (b) **The Live Music Act 2012**; including -
- (i) Removal of licensing requirements for unamplified live music taking place between 8am and 11pm in all venues\*;
  - (ii) Removal of licensing requirements for amplified live music and other entertainments taking place between 8am and 11pm before audiences of no more than 500 persons on premises authorised to supply alcohol for consumption on the premises\* or workplaces;
  - (iii) Removal of the licensing requirement for the provision of entertainment facilities; and
  - (iv) widens the licensing exemption for live music integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

\* Subject to the right of a Licensing Authority to impose conditions about live music following a review of a premises licence or club premises certificate.

- (c) **The Anti-Social Behaviour, Crime and Policing Act 2014**; including changes to police closure order powers and associated arrangements for premises associated with nuisance or disorder.

- (d) **The Deregulation Act 2015**; including -

- (i) Provisions that a personal licence no longer be time limited but has effect indefinitely.
- (ii) Changes to the TEN statutory limits (increasing the number of TENs that can be held in a calendar year from 10 to 15).

- (e) **The Immigration Act 2016**; including –

- (i) Requirements for the Licensing Authority to undertake immigration and right to work checks for all personal licence applications.
- (ii) Provisions to make a personal and/or premises licence lapse in the event that the licence holder no longer retains a right to work.
- (iii) Making the Secretary of State a responsible authority.

- (f) **The Policing & Crime Act 2017**; including –

- (i) Changes to the summary review process and the ability of licence holders to make representations on consideration of any interim steps.
- (ii) The suspension or revocation of a personal licence by the Licensing Authority where a relevant offence becomes known.

## **Licensing objectives**

2.3 Under the Act, a Licensing Authority must carry out its functions with a view to promoting the licensing objectives. There are four licensing objectives which form the basis of the Council's policy; namely –

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

2.4 Whilst the Council maintains a separate pool of model conditions which it can apply, the revised policy also presents a list of relevant considerations appropriate to the promotion of the licensing objectives.

## **Classification of Films**

2.5 The proposed policy also outlines the arrangements for the Licensing Authority to make recommendations in respect of the restriction of children to any exhibition of film which has not been classified by the British Board of Film Classification (BBFC). This accords with mandatory condition requirements applicable to the exhibition of films.

## **Neighbourhood Notifications**

2.6 In a change to existing arrangements, it is proposed that the current policy of issuing neighbourhood notifications of applications be withdrawn. This is where the Licensing Authority notifies residents and businesses who share a boundary or frontage with any premises subject to application.

2.7 The proposal to withdraw the neighbourhood notifications policy is made on the basis that the Act places the onus of advertising applications on the applicant. There is no requirement for the Licensing Authority to advertise licence applications itself and there is some concern that doing so, may be seen as soliciting representations and therefore be subject to challenge.

2.8 The proposal also follows removal of the above mentioned 'vicinity test' and data that suggests 91% of representations against applications are made following sight of the statutory notices displayed by the applicant.

## **2.9 Cumulative Impact**

2.10 One of the key features of the 2010 policy review was the implementation of a special policy concerning the cumulative impact of licensed premises. At the time, the policy was implemented to restrict the grant and/or variation of premises licences in a defined area of Aldershot town centre and was based on the request of and evidence of cumulative impact provided by the Hampshire Constabulary.

2.11 Notably, the special policy was subject to annual review and, whilst invoked on a handful of occasions, lapsed after 12 months due to lack of continuing justification and evidence of an ongoing problem. Indeed, despite periodic calls for evidence, there has been no formal requests for and/or justifiable evidence to warrant the reinstatement of the special policy since. The revised policy makes a statement to this effect.

### **3. CONSULTATION**

3.1 Before adopting any revised policy, the Council must consult a number of statutory stakeholders and individuals who may be affected by any changes (e.g. the licensed trade and residents in its area). As there is no specified consultation period, it is intended to run the consultation until **19<sup>th</sup> October**.

3.2 Notably, and in accordance with Section 5 of the Act, a statement of licensing policy must be approved by full Council. Where appropriate, any material representations will therefore be reported back to Cabinet, before submission for final approval by Council.

### **4. IMPLICATIONS**

#### **Legal Implications**

4.1 By virtue of section 5 of the Act, the Council is obliged to prepare and publish a statement of licensing policy and to keep this under review. Any such policy must seek to promote the statutory licensing objectives (as detailed above) and must include a summary statement on any cumulative impact of licensed premises in the area. As a matter of common law, any policy must also be reasonable and proportionate and should, where appropriate, be justified on the basis of robust evidence.

4.2 Whilst there is no offence under the Act, application decisions based on the policy may be subject to challenge where it has not been suitably maintained, is not reasonable or proportionate or is not otherwise based on suitable justification or evidence.

4.3 Notably, in the absence of any special policy for cumulative impact, the proposed policy sets out the general considerations that both applicants, interested parties, responsible authorities and the Licensing Authority itself may take into account when considering applications made under the Act. This supports the general principle that the Licensing Authority will consider any matter for its determination objectively and on its own individual merits. Accordingly, when read in conjunction with any guidance offered by the Secretary of State the revised policy (which is subject to public consultation) presents a low risk update.

#### **Financial and Resource Implications**

4.3 There are limited financial implications associated with this report in respect of consultation and publication costs. It is however anticipated that these can be absorbed within existing budgets.

## **Equalities Impact Implications**

- 4.4 It is considered that the proposed revisions to the licensing policy present no specific impact on those with protected characteristics. The policy seeks to maintain equality of opportunity and recognises that subject to the requirements of the Act, nothing in the policy overrides or undermines the right of any individual or business -
- (a) to apply for one or more of the authorisations under the Act and, where appropriate, to have that application considered on its individual merits;
  - (b) to make representations on an application or to seek a review of an authorisation where provision has been made for them to do so; or
  - (c) who is aggrieved by the decision of the Licensing Authority to appeal against that decision to the Courts where provision has been made for them to do so.

## **5. CONCLUSIONS**

- 5.1 The Council is obliged to prepare and publish a statement of licensing policy based on a number of licensing objectives every five years. Following various legislative changes, the Council's policy has been due for review and a revised and updated policy has been prepared. While subject to various proposed changes, most of these reflect legislative amendments that have been introduced since the policy was last reviewed.
- 5.2 The key proposed changes concern immigration and right to work checks, changes to TENs arrangements and limits, the classification of films and the removal of existing neighbourhood notification policy. Any revised policy is subject to a period of formal consultation. Whilst a proposed timetable for consultation is outlined above, it is anticipated this will result in presentation to full Council for approval in December.

## **6. RECOMMENDATIONS**

- 6.1 The Committee is requested to consider the revised policy and, as part of the consultation process, make comments or recommendations for report to and consideration by Cabinet on determination as may be appropriate.

### **BACKGROUND DOCUMENTS:**

**HOME OFFICE (2018)**, Guidance issued under Section 182 of the Licensing Act 2003. April 2018.

**RUSHMOOR BOROUGH COUNCIL (2010)**, Statement of Licensing Policy.

### **CONTACT DETAILS:**

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**RUSHMOOR**  
BOROUGH COUNCIL

*Section 182*  
**LICENSING ACT 2003**

# **STATEMENT OF LICENSING POLICY & GUIDANCE**

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# **PART A**

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## **1. FOREWORD**

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### **FOREWORD**

- 1.1 The Council believes that licensed premises and events are an integral part of society and of our area. There are few people who have not used licensed premises or partaken in some kind of licensable activity at some time, whether it be for business or social purposes.
- 1.2 Society takes the provision of such services largely for granted and expects them to be provided responsibly. We believe that this is exactly as it should be and that residents and visitors to Rushmoor simply want a diverse range of activities delivered in a responsible and safe manner.
- 1.3 However, while we recognise that there are many hardworking licence holders within the industry, who are rightly proud of the service they provide, any service to the public may be subject to abuse or be a target for the less scrupulous in society. This may include those who might use their position to exploit the public, for example by supplying illicit alcohol or taking advantage of vulnerable individuals such as children, those under the influence of alcohol and others.
- 1.4 In view of these concerns, we believe that the provision of alcohol, entertainment and late night refreshment needs to be appropriately regulated to prevent the less than honest or responsible persons from undertaking such activities. We believe only those individuals and premises that are responsible, safe and suitable to undertake such activities should be permitted to do so.
- 1.5 However, we also recognise, that while regulation of licensable activities seeks to protect the public, a too restrictive approach can work against the public interest by, for example creating barriers of entry to the trade, restricting the day and night time economy and range of social activities available to our communities. We therefore want to ensure that our licensing approach is suitably justified and proportionate to the risks we seek to address and that the costs incurred are commensurate to the benefits.
- 1.6 In summary, we want to enable good business for all concerned by providing quality, timely and value for money licensing services that reasonably ensures the safety and protection of the public and provides for a suitable, varied day and night-time economy for all. This document sets out how we intend to do this within the existing legislative framework and other constraints.

## **PART B**

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### **2. INTRODUCTION & SCOPE**

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#### **2.1 SUMMARY**

2.2 This document sets out Rushmoor Borough Council's statement of licensing policy pursuant to the requirements of Section 5 of the Licensing Act 2003.

2.3 In preparing this document, Rushmoor Borough Council (RBC) has considered the licensing objectives of the Act, together with the Secretary of State's guidance issued under section 182 of the Act. It has also consulted with and considered the responses made by the individuals, agencies and organisations set out in **appendix A**.

2.4 This policy document was approved and adopted by the Council's executive (Cabinet), meeting on the [DATE] and, ratified by Full Council on [DATE]. While subject to review in accordance with the act, this document shall constitute RBC's statement of licensing policy.

#### **2.5 INTRODUCTION & SCOPE**

##### **2.6 Background**

2.7 The Licensing Act 2003 (the 'Act') provides the legislative framework throughout England & Wales for regulating the supply and retail sale of alcohol, the provision of various entertainments and late night refreshment (collectively known as 'licensable activities').

2.8 Under the Act, RBC along with other authorities is responsible for the licensing of pubs, clubs and other premises in its area where licensable activities take place, together with the licensing of individuals who sell or authorise the sale of alcohol. Councils are also responsible for authorisations permitting temporary licensable activities.

2.9 As a Licensing Authority, the Council is required to prepare and publish a statement of licensing policy in accordance with Section 5 of the Act. This document has been prepared for this purpose and sets out the licensing policies and arrangements the Licensing Authority will normally apply and consider in exercise of its functions under the Act.

2.10 This document will therefore be used to inform our decision making, particularly when making decisions on relevant licence applications and authorisations made under the Act.. It acts as a guide to the considerations and standards to be applied in our licensing work together with the roles and responsibilities of those to which it may apply.

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2.11 The document is not intended to be a full and / or authoritative statement of the law or its associated guidance and does not in any way constitute legal advice. The policy does not override any legal requirements or legislation in force at the time of adoption or as the case may be, enacted afterwards. The statutory provisions of the Licensing Act 2003 together with any subordinate legislation will always take precedence.

**2.12 Applicability**

2.13 This document applies to the functions of RBC as a Licensing Authority under the Licensing Act 2003 and to any licensable activities within the Borough of Rushmoor as defined on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

**2.14 Other documents and references**

Where appropriate, this policy should be read in conjunction with the following documents -

- (a) RBC Enforcement and compliance policy;
- (b) RBC Guidance notes for applicants (various);
- (c) RBC Hearing procedures;
- (d) RBC Hearings protocol;
- (e) RBC Pool of model conditions; and
- (f) Any interim policy notices (see pp 2.15 below).

**2.15 Interim Policy Notices**

2.16 While every effort has been made to ensure that the information in these pages is correct at the time of writing, changes in the law and/or third party procedures etc. may necessitate interim update and/or a review of arrangements.

2.17 These will be incorporated in a revised policy document when it is next reviewed. Meanwhile, minor changes or matters of interpretation may be adopted in the interim. Where appropriate, these will be set out by way of operational notice issued in consultation with the Council's relevant portfolio holder.

**2.18 IMPLEMENTATION**

2.19 This policy shall take effect from **[DATE]** and will override and supersede all existing Council policy and guidance in relation to The Licensing Act 2003.

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- 2.20 The policy will remain effective for a maximum period of 5 years but will be kept under review. Where appropriate, and subject to any interim policy arrangements (see pp 2.15 above) the Council will consult on any proposed revisions, to reflect changes in the law and best practice.

## **PART C**

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### **3. LICENSING PRINCIPLES, OBJECTIVES & GENERAL CONSIDERATIONS**

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#### **3.1. GENERAL**

3.2. A number of authorisations and administrative procedures may be sought, held or applied for under the Act. The policies and considerations to be applied will generally depend on the nature of the authorisation sought / held and/or the circumstances of the case.

#### **3.3. General application of policies, objectives and considerations**

3.4. Paragraphs 3.7 to 3.47 below are of general applicability and will normally be applied in respect of any function of the Licensing Authority under the Act.

#### **3.5. Guidance, policies and considerations for specific authorisations**

3.6. In addition, the specific sections set out in Table 1 below will normally be applied in respect of the specific authorisations to which it refers.

**Table 1**  
**Guidance, policies and considerations for specific authorisations**

<b>Premises Licence</b>	See Part F	From page 26
<b>Provisional Statement</b>	See Part G	From page 35
<b>Variation (various)</b>	See Part H	From page 36
<b>Transfer of a premises licence</b>	See Part L	From page 48
<b>Interim authority notice</b>	See Part M	From page 50
<b>Review</b>	See Part N	From page 52
<b>Club premises certificate</b>	See Part O	From page 56
<b>Temporary event notice</b>	See Part P	From page 60
<b>Personal licence</b>	See Part Q	From page 66

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**3.7. FUNDAMENTAL PRINCIPLES & OBJECTIVES**

**3.8. Guiding Principle**

3.9. In carrying out its functions under the Act, the Licensing Authority will seek to regulate licensable activities in the public interest and will, where appropriate, seek to enable good business for all concerned. We will endeavour to do this by providing quality, timely and value for money licensing and regulatory services with a view to promoting the following licensing objectives -

- (a) To prevent crime & disorder;
- (b) To ensure public safety;
- (c) To prevent public nuisance; and
- (d) To protect children from harm.

**NB:** The Licensing Authority shall give paramount consideration to the licensing objectives and consider each objective to be of equal importance, giving them their widest possible interpretation and meaning.

**3.10. GENERAL LICENSING PRINCIPLES**

**3.11. General principles**

3.12. Where entitled to do so, the Licensing Authority will normally -

- (a) consider any matter for its determination objectively and on its own individual merits;
- (b) consider the nature, type and extent of any effect on the promotion of the licensing objectives; and
- (c) focus on matters that are within the control of individual applicants and others in possession of relevant authorisations, the premises where licensable activities are to be provided and the area in the vicinity of the premises concerned.

**3.13. Control of third parties**

3.14. Licensing laws will not normally be used as a mechanism for the general control of individuals once they leave the vicinity of licensable activities and/or premises and therefore, beyond the direct control of the individual, club or business concerned. However, this does not negate the need for suitable dispersal, cleansing and other management arrangements in the vicinity of the premises concerned that may be appropriate to promote the licensing objectives.

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**3.15. OTHER RELEVANT CONSIDERATIONS**

**3.16. Integration of policies, strategies and objectives**

3.17. The Licensing Authority may, where it is entitled to do so and, in so far as they are relevant to the promotion of the licensing objectives and the particular circumstances of the case, have regard to, but not be bound by, the aims, objectives and findings of any published governmental strategies and plans.

3.18. For these purposes, governmental strategies and plans are taken to mean those prepared and published by or on behalf of HM Government, Rushmoor Borough Council and / or any other statutory authority with responsibilities within the area concerned.

**3.19. Live Music, Dancing & Theatre**

3.20. In exercising its functions, the Licensing Authority will, where appropriate and, without compromising the licensing objectives, take account of the need to encourage and promote all forms of entertainment (particularly live music, dancing and theatre, and traditional or historic entertainments) for the wider cultural benefit of its communities.

**3.21. Licensing Hours**

3.22. The Licensing Authority may, where it is entitled to do so and, in so far as they are relevant to the promotion of the licensing objectives and the particular circumstances of the case, take account of the impact that licensing hours may have -

- (a) on the development of a thriving and safe day-time, evening and night-time economy;
- (b) in providing consumers with greater choice and flexibility; and
- (c) in helping to ensure that concentrations of customers leaving premises simultaneously are avoided; helping to reduce friction and other problems of disturbance, crime and disorder at late night food outlets, taxi ranks and other sources of transport etc.

3.23. Through (and subject to) the promotion of the licensing objectives, the Licensing Authority will, where it is entitled to do so, normally seek to reduce the potential for concentrations and/or achieve a gradual dispersal of people from licensed premises through flexible licensing / opening hours.

3.24. With regard to shops, stores and supermarkets, unless there are compelling reasons for restricting licensing hours, the Licensing Authority will, where it is entitled to do so, normally allow such premises to be free to provide sales of alcohol for consumption off the premises at any times when the outlet is open for business.

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**3.25. Partnership Working**

3.26. Where possible and appropriate, the Licensing Authority will seek to work with partners and support initiatives (e.g. Pubwatch, CAP) in order to achieve its aims and ensure the promotion of the licensing objectives.

**3.27. Economy, Employment & Investment**

3.28. In exercising its functions, the Licensing Authority may, where it is entitled to do so and, in so far as they are relevant to the licensing objectives, also take into consideration the following -

- (a) the needs of the local economy;
- (b) the employment situation in the area;
- (c) the need for new investment; and
- (d) the impact of licensing on the provision of regulated entertainment.

**3.29. LICENSING POLICY & SECRETARY OF STATES GUIDANCE**

3.30. In exercising its functions, the Licensing Authority will, where appropriate, have regard to -

- (a) this statement of licensing policy;
- (b) any guidance issued by the Secretary of State under section 182 of the Act; and
- (c) the Council's enforcement policy.

**3.31. DEPARTURE FROM GUIDANCE & POLICY**

3.32. The Licensing Authority may, where it is entitled to do so, use its discretion to depart from this statement of policy and any other policy / guidance where it is appropriate and, in such cases, will give clear reasons.

**3.33. NON RELEVANT MATTERS**

**3.34. Relevance to the licensing objectives**

3.35. In exercise of its functions, the Licensing Authority will not generally take into account any matters that are not related to the licensing objectives.

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**3.36. Need, demand & competition**

3.37. The Licensing Authority does not generally consider that need (i.e. commercial demand), or competition between rival operators, are relevant to its functions under the Act. The Licensing Authority will usually consider these as matters for the market.

**3.38. DUPLICATION & OTHER RELEVANT LEGISLATION**

**3.39. General Expectation of Compliance**

3.40. The Licensing Authority expects those providing licensable activities to fully comply with all other relevant legislation (e.g. Health & Safety) applicable to the premises and the activities carried on there. The Licensing Authority will therefore normally seek to avoid duplication with other regulatory regimes in exercise of its functions. However, non-compliance with other legislation and associated agency requirements, may be taken into account insofar as it provides an indicator of the management of the premises and the wider picture and/or confidence in management to suitably promote the licensing objectives.

**3.41. Other authorisations and permissions**

3.42. The Licensing Authority expects those providing licensable activities to ensure that they have obtained all necessary authorisations and permissions before proceeding with any licensable activities or associated applications (e.g. planning permission, landowner permission etc). A relevant authorisation under the Licensing Act 2003 does not, and shall not be taken to give or imply approval for any other activity regulated by this or any other authority. Prospective applicants are advised to check to ensure that their proposals / arrangements are suitably authorised in **all** respects.

**3.43. Planning & Building Control Requirements**

3.44. The Licensing Authority notes that the use of premises for sale or provision of alcohol, entertainments or late night refreshment may be subject to control by the local Planning Authority and that such uses may require planning permission or must otherwise be lawful under planning legislation. The Licensing Authority notes that planning permission is usually required for new premises and/or the change of use of premises while building control approval is often required for structural alterations.

3.45. While applications for relevant authorisations may be made pending any planning permission, the Licensing Authority expects these normally to be made by businesses with planning consent for the property and uses concerned. The Licensing Authority considers

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provisional statements the most appropriate authorisation pending application for planning consent.

**NB:** The grant or variation of a relevant authorisation by the Licensing Authority does **not** relieve the applicant (or licence holder) of the need to apply for and obtain planning permission or building control approval where this may be appropriate. This includes any alterations that may be necessary in order to comply with any licensing requirements. Premises operating in breach of any planning permission and/or associated restrictions (e.g. permitted hours of use) may commit an offence and may be liable to formal action under planning law.

3.46. The Licensing Authority would impress that planning, building control and licensing regimes are separate legislative regimes that involve consideration of different (albeit sometimes related) matters. In view of this and so as to ensure a clear separation of planning and licensing systems, licensing applications will, in all cases, be considered wholly independently of planning applications.

3.47. Licensing applications will not be treated as a re-run of any planning application. The Council will treat the outcome of any licence and/or planning application as entirely separate.

## **PART D**

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### **4. CUMULATIVE IMPACT**

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#### **4.1. CUMULATIVE IMPACT OF LICENSED PREMISES**

4.2. The Licensing Authority recognises that the number, type and concentration of licensed premises in any given area, may have a 'cumulative impact' on one or more of the licensing objectives (e.g. problems with nuisance, crime and disorder etc.) over and above the impact of the individual premises themselves. It also recognises that such problems may occur both in the vicinity of and at some distance from the premises concerned.

#### **4.3. ARRANGEMENTS TO TACKLE CUMULATIVE IMPACT**

4.4. In recognition of the potential for cumulative impact, and by way of promoting the licensing objectives, the Licensing Authority may act on or otherwise consider any of the following.

#### **4.5. Adoption of Special Policy**

4.6. The Licensing Authority may, in its own right or, on receipt and consideration of relevant representations from any Responsible Authority or other person adopt a special policy to control any cumulative impact on the licensing objectives arising in any area.

4.7. For these purposes, any special policy shall be limited to the restriction of future applications for relevant authorisations within any area where the number, type or density of licensed premises may lead to, or is otherwise causing, serious problems with nuisance, crime and disorder or other relevant problems over and above the impact of individual premises in the area concerned. Any special policy may be limited to areas in the vicinity of and/or at some distance from the premises concerned.

#### **4.8. Relevant considerations to the adoption of a special policy**

4.9. In deciding whether to adopt a special policy the Licensing Authority will normally consider –

- (a) whether serious and chronic concerns have been identified by a Responsible Authority or significant representations from other persons have been received about the levels of nuisance, crime and disorder or other relevant problems;

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- (b) whether it can be demonstrated that crime and disorder, nuisance or other relevant problems arise as a result of customers from licensed premises in an identified and specific area; or that the risk factors are such that the area is reaching a point when cumulative impact is imminent;
  - (c) whether the imposition of conditions to individual licences is (un)likely to address the wider problems concerned; and
  - (d) whether taking all relevant matters into account a policy about future licence applications from that area should be adopted (i.e. it is necessary and appropriate to control the cumulative impact claimed).
- 4.10. At the time of writing, no special policy has been requested and/or is considered necessary. However the Licensing Authority will review this, where a Responsible Authority or other party, submits suitable evidence to suggest there is a negative effect on the promotion of the licensing objectives due to cumulative impact.

**4.11. Other Controls for Controlling Cumulative Impact**

4.12. Regardless of whether or not a special policy is in place, the Licensing Authority recognises and will, where appropriate, seek to promote, use and consider (where entitled to do so) alternative mechanisms to control the anti-social behaviour of consumers after leaving licensed premises.

4.13. These may include -

- (a) planning controls;
- (b) positive measures and local initiatives to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- (c) the provision of physical measures and services such as CCTV surveillance systems, taxi ranks, taxi marshalling schemes, provision of public conveniences, street cleaning and litter patrols
- (d) 'public spaces protection orders' to control the drinking of alcohol in public spaces under the Anti-social Behaviour, Crime and Policing Act 2014;
- (e) the confiscation of alcohol from individuals in designated areas;
- (f) enforcement against disorder and anti-social behaviour including the issuing of fixed penalty notices;

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- (g) the prosecution of any personal licence holder or member of staff at licensed premises who sells alcohol (whether or not by proxy) to people who are drunk or underage;
- (h) the warning and prosecution of persons in accordance with local byelaws covering the consumption of intoxicating liquor in designated and public places;
- (i) Responsible Authority powers to close down instantly for up to 48 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises; and
- (j) the power of the Police, Licensing Authority and other Responsible Authorities, councillors and / or any other person to seek a review of a relevant authorisation.

## **PART E**

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### **5. GENERAL ADMINISTRATIVE ISSUES**

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#### **5.1. APPLICATIONS, NOTICES & REPRESENTATIONS**

#### **5.2. Equality of opportunity**

5.3. Subject to the requirements of the Act, nothing in this statement of policy shall override or undermine the right of any individual or business -

- (a) to apply for one or more of the authorisations under the Act and, where appropriate, to have that application considered on its individual merits;
- (b) to make representations on an application or to seek a review of an authorisation where provision has been made for them to do so; or
- (c) who is aggrieved by the decision of the Licensing Authority to appeal against that decision to the Courts where provision has been made for them to do so.

#### **5.4. Local Authority Licences**

5.5. Nothing within this document prevents Rushmoor Borough Council from applying to the Licensing Authority for any of the authorisations provided for under the Act. Subject to the requirements of the Act, RBC may seek multiple and/or global licences for public events and spaces within the community in its own name. This is inclusive of village greens, parks, market squares, community halls and local authority owned premises etc.

5.6. In considering any application by Rushmoor Borough Council for any licence or authorisation provided for under the Act, the Licensing Authority will ensure that the licensing committee and its officers consider the matter from an entirely neutral standpoint.

#### **5.7. Submission of applications, notices and representations**

5.8. Except applications made entirely electronically, all applications, notices and representations must be sent to the Licensing Authority care of the following –

**The Licensing Authority**  
Rushmoor Borough Council  
Council Offices  
Farnborough Road  
Farnborough  
GU14 7JU

**Telephone:** 01252 398855

**Fax:** 01252 524017

**Email:** [licensing@rushmoor.gov.uk](mailto:licensing@rushmoor.gov.uk)

**Website:** [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)

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**5.9. Making an application or serving notice**

5.10. While it is not the purpose of this document to detail how to make an application for any of the authorisations established by the Act, the Licensing Authority will prepare and maintain suitable guidance notes for applicants for this purpose.

5.11. Guidance notes for applicants will be maintained on our website ([www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)) and / or shall be made available on request by contacting our licensing team via telephone 01252 398855 or email at [licensing@rushmoor.gov.uk](mailto:licensing@rushmoor.gov.uk).

**5.12. Responsible Authority Notifications**

5.13. The Licensing Authority will endeavour to send an electronic copy of every application it receives to the relevant Responsible Authorities. Whilst the Act requires us to do this on behalf of the applicant only for electronic applications, it is the opinion of the Licensing Authority that it is more economic, environmentally friendly, consistent and helpful to all parties to do this for all applications.

5.14. However, whilst it can provide acknowledgement that it has sent applications to the relevant Responsible Authorities on request, the Licensing Authority asserts that it remains the responsibility of applicants to ensure all relevant applications are made in accordance with the relevant statutory requirements.

**5.15. Validity of applications or notices**

5.16. The Licensing Authority will, normally, only accept and, where appropriate, process applications and notices that **fully** comply with all relevant legislative requirements. Conversely, applications and/or notices will normally be treated as being invalid where applications fail to comply with all relevant legislative requirements.

5.17. Where it considers it appropriate to do so, the Licensing Authority may return or 'hold' an invalid application depending on the nature of any problem with it. Where we 'hold' an application and / or receive application documents and submissions on a 'piecemeal' basis, the application / notice will not be treated as validly made until we have received the last required submission necessary to comply with the legislative requirements. In these circumstances, we will normally treat any statutory timescales for processing and/or determination of the application as having been (re)set from the date the last required submission was made.

**NB:** This may affect advertising requirements and applications may need to be re-advertised in accordance with any revised timescales.

5.18. The Licensing Authority will normally reject an application, where the applicant persistently fails to supply required information.

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**5.19. Safeguarding against document fraud**

5.20. So that it can satisfy itself against forgery and the potential for fraud, the Licensing Authority will normally require, where appropriate, **all** submissions to –

(a) be original documents (i.e. of original form / format); and

(b) be in and up-to-date; and

(c) be suitably addressed; and

(d) suitably cross reference (i.e. be consistent with all other relevant documents and submissions).

5.21. Photocopies, scans, emails and/or similar will **not** normally be accepted; unless supplied and verified directly by a recognised third party (e.g. government agency, insurance company or service provider etc).

5.22. Where appropriate, we will treat any document as being invalid where it is not in original form (subject to stated exception), is out of date, bears incorrect details, cannot be validated or where we otherwise suspect it may have been forged, improperly altered or tampered with. Further, the Licensing Authority will normally refuse any licence application and/or review any licence held where any document submitted as part of an application and/or in maintenance of any licence is suspected to be fraudulent, inaccurate and/or out of date.

**5.23. Disclaimer**

5.24. The Licensing Authority accepts no liability for rejection, loss or delays incurred due to late submission or the submission of an incomplete application; howsoever caused.

**5.25. USE & EXCHANGE OF INFORMATION**

**5.26. Data Protection & Exchange of Information**

5.27. Information regarding how we will use, store and share your information, including our retention guidelines, is available at [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk) and on all relevant application forms.

**5.28. Keeping personal information up-to-date**

5.29. To allow for communications and ensure that authorisations remain valid, licence holders must keep the Licensing Authority advised (as soon as reasonably practicable) of any change of name, address or contact details (telephone, mobile, email address etc). Where appropriate the Licensing Authority may check any change of details and require suitable proof of identity and evidence of the change(s) made.

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5.30. As the Licensing Authority may have urgent cause to contact licence holders in circumstances and situations that may affect public safety or protection (e.g. in respect of upcoming events etc.), the Licensing Authority will take a serious view of any individual who fails to advise it of any relevant change in details.

**5.31. LICENSING REGISTER & PROVISION OF INFORMATION**

**5.32. Licensing register**

5.33. The Licensing Authority is required to maintain a public register of all authorisations that it issues, together with other information.

5.34. For ease of access, reference and transparency, all public registers will be published on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk). However, a hard copy of the public register may be obtained, for a fee, from Rushmoor Borough Council, Council Offices, Farnborough Road, Hampshire GU14 7JU, telephone (01252) 398855.

**5.35. Publishing of applications and licences**

5.36. For ease of access, reference and transparency, it is the policy of the Licensing Authority to also publish a redacted copy of any licence or application open to representations on our website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk). Relevant applications will be published in this way for the duration of the relevant representations period.

**5.37. DELEGATION OF FUNCTIONS**

**5.38. Exercise & Delegation of Functions**

5.39. In the interests of speed and efficiency the Licensing Authority will, where possible, delegate licensing decisions and functions to officers. Where the determination of the matter under delegated powers is precluded by law, then it will be decided by the Licensing Committee or a Sub-Committee thereof. Within these constraints, functions and responsibilities will be delegated in accordance with the Council's scheme of delegation.

## **PART F**

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### **6. PREMISES LICENCES**

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#### **6.1. MAKING AN APPLICATION FOR A PREMISES LICENCE**

6.2. We will normally accept and, where appropriate, consider those applications that comply with the legislative requirements and are accompanied by the following –

- (a) a completed application form (including operating schedule);
- (b) a plan of the premises in the required form;
- (c) a form of consent of the individual to be designated as premises supervisor (only where licensable activities include the sale of alcohol);
- (d) the appropriate fee; and
- (e) where the applicant comprises one or more individuals; documentation showing proof of their eligibility to work in the UK.

**NB:** Licence holders and applicants should note, that a Premises Licence automatically lapses where the licence holder is no longer eligible to work in the UK, or in the case of a limited company if it ceases to exist (e.g. struck off, dissolved etc.)

#### **6.3. Issues in respect of plan(s) of the premises**

6.4. The Licensing Authority expects, and may check through unannounced visits to premises, that submitted plans are both accurate and up-to-date and show all prescribed details and features.

6.5. In addition to the prescribed details and features, applicants are encouraged to provide the following information to assist with the assessment of plans by the Responsible Authorities; namely -

- (a) dimensions of the floor area (of each room / area);
- (b) dimensions of any area to be used as standing or seating;
- (c) dimensions of fire exit doors;
- (d) dimensions of escape routes;
- (e) details and location of emergency lighting;

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- (f) details and location of fire alarm and detection systems;
- (g) details and location of emergency escape signage; and
- (h) details and location of fire fighting equipment.

**6.6. Issues in respect of premises supervisors**

- 6.7. Issues regarding designated premises supervisors can be found in Part J below.

**6.8. Issues in respect of the operating schedule**

- 6.9. The operating schedule is a part of the application form where applicants must detail the relevant licensable activities to be conducted on the premises, the hours / times during which licensable activities are to take place; together with the hours / times that the premises are open to the public. Operating schedules must also specify any period for which a licence is to be effective (only where any licence is to have effect for a limited period) and whether any sales of alcohol are for consumption on or off the premises, or both.
- 6.10. The applicant must also specify in the operating schedule the steps that (s)he proposes to take to promote the licensing objectives. As these may be transposed into conditions of a premises licence (where granted), the following actions are strongly recommended.

**Risk assessments**

- 6.11. By way of informing the steps that they propose to take to promote the licensing objectives, the Licensing Authority strongly recommends that applicants carry out a thorough risk assessment in respect of the following matters –
- (a) their proposals (e.g. proposed licensable activities, hours of operation, capacities, the premises to be used and/or local environment etc);
  - (b) the impact of these on each licensing objective;
  - (c) any information provided in any local area profile provided by the Council; and
  - (d) the considerations set out in paragraphs 6.14 to 6.17 below.

**Liaison with Responsible Authorities**

- 6.12. While not required to do so, the Licensing Authority strongly recommend that applicants consult the relevant Responsible Authorities about the preparation of risk assessments and/or the

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identification of the steps necessary to promote the licensing objectives at the earliest possible opportunity (preferably before formally submitting their applications). However, it must be noted that these authorities are not responsible for drawing up applications, which remain the sole responsibility of the applicant. It is for the applicant to consider if and how to identify and address relevant matters.

**Venue Characteristics**

- 6.13. In order that applicants, interested parties and other Responsible Authorities can assess what measures may be necessary / appropriate to promote the licensing objectives, it is strongly recommended that operating schedules also include -
- (a) a description of the style and characteristics of the business and the premises concerned;
  - (b) the extent to which tables and chairs, general seating and other fixtures or fittings are to be provided;
  - (c) the type and nature of the activities to be provided on the premises (whether licensable or not); and
  - (d) a description of any adult entertainment to be provided at the premises (e.g. that involve nudity, striptease, pole-dancing, lap-dancing or other activities of a sexual or adult nature and/or content).

**6.14. The general content of operating schedules and the steps to be taken to promote the licensing objectives**

**General considerations**

- 6.15. The Licensing Authority recommends (to applicants) and will, where it is entitled to do so, seek to ensure that the steps taken to promote the licensing objectives are -
- (a) realistic
  - (b) precise, unambiguous and coherent; and
  - (c) within the control of the applicant / management of the premises.
- 6.16. The Licensing Authority recommends (to applicants) and will, where it is entitled to do so, seek to ensure that the steps taken to promote the licensing objectives are generally suitable and sufficient for –
- (a) the character, nature, size, type, layout and style of the business and the premises concerned;

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- (b) the circumstances and location of the premises concerned together with the nature of the area in which the premises are situated and/or where the activities are to be provided;
- (c) the permitted hours for provision of licensable activities;
- (d) the nature and type of licensable activities to be provided at the premises;
- (e) the nature and age profile of clientele; and
- (f) the nature and needs of the local community.

**Other relevant considerations**

6.17. The Licensing Authority recommends (to applicants) and will, where it is entitled to do so, consider the following matters in review of the operating schedule and, where appropriate, in determination of the measures to be taken to promote the licensing objectives; namely -

- (a) the offences created by or detailed in the Act;
- (b) the policies and considerations listed at **appendix C**;
- (c) any guidance documents;
- (d) our current pool of model conditions;
- (e) the Secretary of State's guidance (issued under Section 182 of the Licensing Act 2003);
- (f) the pool of model conditions contained in the Secretary of State's guidance (issued under Section 182 of the Licensing Act 2003);
- (g) any relevant strategies and plans as detailed in paragraphs 3.15 to 3.18; and
- (h) current best practice.

**NB(1):** These considerations should not be seen as a comprehensive or exhaustive checklist or, in any way, be regarded as standards to be automatically applied in all cases.

**NB(2):** With reference to item (a) above, measures / steps duplicating the offences under the Licensing Act 2003 are unnecessary. However, applicants may wish to specify how they intend to avoid committing such offences.

**6.18. Applicant measures to promote the licensing objectives**

6.19. Applicants may volunteer any measures they intend to take to promote the licensing objectives. However, applicants should be aware that any specified steps may be transposed into a condition of the relevant authorisation concerned (where granted). The Licensing Authority will

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transpose such conditions in accordance with this policy (see Part S below). As conditions are enforceable in law, applicants should also be aware that any breach of conditions may give rise to prosecution (see also 19.27 below) and / or review of the licence.

**6.20. Large / outdoor events and/or specialised activities**

6.21. Special issues and considerations may arise where large-scale, outdoor and/or specialised events are proposed. For this reason, the Licensing Authority **strongly recommends** that applicants –

- (a) give notice (at the earliest possible opportunity **and** well before any formal application is submitted) of any proposed large / outdoor / special event; and
- (b) discuss and develop any relevant event application proposals through a safety advisory group (SAG) (see below), where appropriate or otherwise invited to do so.

**6.22. What we mean by ‘large / outdoor / special events’**

6.23. For the purposes of this section, large / outdoor / special events shall be given their widest possible interpretation and meaning and shall include, but not be limited to, those events –

- (a) where specialised or unique activities, equipment or environments may be used or provided;
- (b) of a significant size, nature or complexity; and/or
- (c) that present a risk of disruption to the local community, local services or infrastructure.

**6.24. What is the Safety advisory group (SAG)?**

6.25. As special considerations may apply, it is the policy and role of the Licensing Authority to facilitate and, where appropriate, help co-ordinate a safety advisory group (SAG) in connection with relevant proposals, applications and authorisations concerning large / outdoor / special events.

6.26. The SAG is a unique forum convened to consider the necessary policies, plans, procedures and/or risk assessments for relevant events. It may comprise of a mix of Responsible Authorities and other relevant agencies with an interest in the management and organisation of such events. SAG membership will vary according to the circumstances.

**NB:** Whilst SAGs are a useful means to help identify the relevant considerations and steps necessary to promote the licensing objectives

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in respect of large / outdoor / special events and therefore help develop relevant application proposals, they are not responsible for 'sign off' or approval of such steps. This is a matter for the applicant.

**6.27. When is the SAG used?**

6.28. A SAG may be convened at an applicant's request or at the request of any relevant agency.

**6.29. SAG limitations and benefits**

6.30. It must be noted that SAGs are **not** responsible for the content of applications, which remains the sole responsibility of the applicant. The applicant must consider if and how to address the issues raised by the SAG and/or those matters outlined in this document. However, experience shows that applicants that go through the SAG process are less likely to attract representations in respect of their proposals.

**NB:** SAGs **do not** relieve Responsible Authorities or other persons of the need to make relevant representations where they believe this is appropriate (see Part R below).

**6.31. ADVERTISING APPLICATIONS**

**6.32. Prescribed matters**

6.33. All applications for relevant authorisations must be advertised in the prescribed manner. The Licensing Authority expects, and may check (inclusive of unannounced visits to premises) to ensure that applications that must be advertised, have been advertised correctly.

**6.34. Failure to advertise relevant applications**

6.35. The Licensing Authority will not accept an application where the applicant fails to advertise when required to do so, fails to advertise the prescribed information or for the prescribed period. The Licensing Authority will similarly not accept any application where, on advert, insufficient time is provided for interested parties and Responsible Authorities to consider and, where appropriate, make representations.

6.36. If these circumstances, the Licensing Authority may, where it considers appropriate to do so, treat any relevant application afresh and carry over any fees paid, provided that the application is subsequently advertised correctly for the minimum statutory periods required. In these circumstances, the Licensing Authority may establish dates by which the application must be (re)advertised and by which representations must be made and (re)set statutory application timescales accordingly.

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**6.37. NEGOTIATED CONDITIONS**

6.38. Given the costs of relevant licence applications and associated hearings, the Licensing Authority will normally apply a pragmatic approach to making application changes. This is subject to a policy of 'no detriment' which, for these purposes, will normally be considered in its widest sense but generally taken to mean no additional impact, impairment or disadvantage to or on –

(a) the licensing objectives, permitted hours, capacity or some other specific term; and/or

(b) the Responsible Authorities or other persons to make representations and/or suitably respond to any changes in a timely manner.

6.39. Accordingly, where a Responsible Authority or other person, believes that an application operating schedule is insufficient to promote the licensing objectives, the Licensing Authority would encourage their contact with the applicant to negotiate appropriate conditions that deal with their concerns. Where appropriate, the Licensing Authority will normally accept such negotiated conditions as an amendment to an application where the applicant submits a written copy of their acceptance of the conditions concerned to the Licensing Authority during the representation period.

**NB:** This does not negate the need for a hearing of the Licensing sub-committee to be held to determine any application where other relevant representations are received. However, where appropriate, any negotiated conditions would be considered as part of the application at any such hearing.

**6.40. DETERMINATION OF RELEVANT APPLICATION**

6.41. Where relevant representations are received, the Licensing Authority must hold a hearing to consider the merits of the application unless the applicant, the Licensing Authority and all parties who have made representations agree a hearing is not necessary.

6.42. Where no representations are received, the Licensing Authority must grant the relevant authorisation sought subject to -

(a) any mandatory conditions;

(b) conditions that are consistent with the operating schedule; and

(c) conditions added to the operating schedule during the representation period by the applicant, on negotiation with a Responsible Authority or any other person.

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- 6.43. The guidance, policies and considerations set out in Part R below will normally be applied in respect of representations and those that can make them, while those set out in Part S below will normally be applied in respect of applicable conditions.
- 6.44. **APPLICATIONS FOR A PREMISES LICENCE FOR PREMISES FOR WHICH A PROVISIONAL STATEMENT WAS MADE**
- 6.45. When an individual subsequently applies for a premises licence in respect of premises for which a provisional statement has been made, representations by Responsible Authorities and other persons will normally be excluded where -
- (a) the application for the premises licence is in the same form described in the application for the provisional statement; and
  - (b) the works specified in the provisional statement have been satisfactorily completed; and
  - (c) there has been no material change in circumstances concerning the relevant premises or the area in the vicinity of the premises since the provisional statement was made; and
  - (d) the individuals / bodies making the representations could have made the same (or substantially the same) representations about the application at the time of the application for the provisional statement, but failed to do so without good reason.
- 6.46. **What we mean by 'satisfactorily completed'**
- 6.47. The Licensing Authority will normally take any reference to the work being satisfactorily completed to mean that work at the premises has been completed in a manner that substantially complies with the schedule of works accompanying the application for the provisional statement.
- 6.48. **What we mean by 'substantially the same'**
- 6.49. The Licensing Authority will normally consider the term 'substantially the same' on the basis of fact and degree. However, the Licensing Authority will, where appropriate, consider any changes in circumstances on the basis of its [potential] impact on the licensing objectives.
- 6.50. **Inspection of premises on application for a premises licence**
- 6.51. The Licensing Authority recognises that material changes are more likely to arise when significant periods of time pass between the issue of a provisional statement and the completion of premises / works.

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6.52. Officers of the Licensing Authority may therefore carry out an inspection of premises which are the subject of an application for a premises licence (for which a provisional statement was made) to assess and comment on (where entitled to do so) the degree to which the premises or the area in the vicinity have changed.

**6.53. EXHIBITION OF FILMS NOT CLASSIFIED BY THE BBFC**

6.54. In accordance with the mandatory conditions of the Act, the Licensing Authority will consider and make recommendations in respect of the restriction of children to any film that has not been classified by the British Board of Film Classification (BBFC).

6.55. Requests to this effect should be made in writing to the Licensing Authority and be accompanied by a copy of the film. To allow for an appropriate assessment, films must be provided in spoken English or with English subtitles and must be supplied in a viewable format (e.g. password protected web viewing or DVD). Please note Blu-ray will not be accepted.

6.56. Where appropriate, the Licensing Authority will normally hold a hearing of its Licensing Sub-committee to review the film, and consider any appropriate restrictions. For these purposes, the Licensing Authority will apply and consider any BBFC guidance in force at the time.

## **PART G**

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### **7. PROVISIONAL STATEMENTS**

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#### **7.1. MAKING AN APPLICATION FOR A PROVISIONAL STATEMENT**

7.2. We will normally accept and, where appropriate, consider those applications that comply with the legislative requirements and are accompanied by the following –

- (a) a completed application form (including a schedule of works); and
- (b) the appropriate fee.

#### **7.3. What we mean by a 'schedule of works'**

7.4. A schedule of works is part of the application form that includes particulars of the premises to which the application relates and of the licensable activities for which the premises are to be used. The schedule of works also provides the opportunity to specify the steps the applicant proposes to take to promote the licensing objectives.

7.5. It must also include detailed plans of the work being or about to be done at the premises. For this purpose, the Licensing Authority recommends that any plan generally contains, where possible, the same or similar information as required for grant / variation of a relevant authorisation.

#### **7.6. Completing a schedule of works**

7.7. A schedule of works is similar to, and should be considered and completed in a similar way to an operating schedule (see 6.8 to 6.19). References in this policy document which cover the arrangements for completion of an operating schedule (see premises licences) should also be read and generally be applied for the purposes of any application for a provisional statement.

#### **7.8. Other requirements**

7.9. Applications for provisional statements must be advertised and determined in a similar way to premises licences (see 6.31 to 6.36). Where appropriate, references in this policy document which cover premises licences should be read and generally be applied for the purposes of any applications for a provisional statement.

## PART H

### 8. VARIATION OF A RELEVANT AUTHORISATION

#### 8.1. WHAT WE MEAN BY 'VARIATION'

8.2. The holder of a club premises certificate or premises licence may, seek to amend their authorisation by way of an application to vary it, at any time. The process to be followed and the considerations to be applied will generally depend on the nature of the variation sought and its potential impact on the licensing objectives.

#### 8.3. Different types of variation

8.4. There are four types of variation procedure. These, together with the specific guidance, policies and considerations that will normally be applied to each are set out in the sections shown in Table 2 below.

**Table 2 - Different types of variation**

<b>'Full' variation of a relevant authorisation</b>	See Part H	From page 36
<b>Minor Variation(s)</b>	See Part I	From page 38
<b>Variation to specify a new individual as premises supervisor</b>	See Part J	From page 41
<b>Variation to disapply the requirement for a premises supervisor</b>	See Part K	From page 44

#### 8.5. SCOPE OF 'FULL' VARIATION(S)

8.6. The 'full' variation procedure does not apply to changes of the premises supervisor or to disapply the requirements for a premises supervisor. Different procedures apply as outlined in table 2 above.

8.7. Similarly, the Licensing Authority cannot permit variations to amend the expiry date of a time-limited authorisation or otherwise transfer the licence from one premises to another. In these cases, an application for grant of a new authorisation will normally be required.

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**8.8. APPLICABLE CONSIDERATIONS**

8.9. Application procedures for a 'full' variation are similar to those for premises licences (see Part F) and club premises certificates (see Part O). Where appropriate, references in this policy document which cover such arrangements and the associated considerations for premises licences should be read and generally be applied for the purposes of any 'full' variation application.

8.10. However, the following matters shall, in addition, apply to 'full' variation applications.

**8.11. Variation of operating schedules**

8.12. To avoid confusion, operating schedules for applications for variation of a relevant authorisation should contain only details of those matters to be varied. Everything else on the original licence will remain.

**8.13. DETERMINATION OF 'FULL' VARIATION OF A RELEVANT AUTHORISATION**

8.14. Where relevant representations are received, the Licensing Authority must hold a hearing to consider the merits of the application unless the applicant, the Licensing Authority and all parties who have made representations agree a hearing is not necessary.

8.15. Where no representations are received, the Licensing Authority must grant the variation as sought subject only to -

(a) any mandatory conditions;

(b) conditions that are consistent with the operating schedule;

(c) any amendments made to the application, accepted during the representation period.

8.16. The guidance, policies and considerations set out in Part R below will normally be applied in respect of representations and those that can make them, while those set out in Part S below will normally be applied in respect of conditions.

## **PART I**

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### **9. MINOR VARIATION(S)**

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**9.1. WHAT WE MEAN BY 'MINOR VARIATION'**

9.2. Holders of relevant authorisations may, at any time, apply for minor variation to their licence to authorise -

- (a) minor changes to the structure or layout of a premises;
- (b) small adjustments to licensing hours (see 9.3 and 9.4 below);
- (c) the removal of out of date, irrelevant or unenforceable conditions;
- (d) the addition of volunteered conditions; and / or
- (e) the addition of certain licensable activities.

9.3. With reference to the above, it is the view of the Licensing Authority that only small changes that have no adverse impact on the licensing objectives are suitable for disposal through the minor variations process. In any other case, a full variation will normally be required.

9.4. The following are not considered suitable for minor variation and alternative arrangements should be applied (see Part H). These include applications to vary a relevant authorisation so as to -

- (a) extend the period for which the licence has effect;
- (b) transfer the licence from one premises to another;
- (c) vary substantially the premises to which it relates;
- (d) specify, in a premises licence, an individual as the premises supervisor;
- (e) add the retail sale or supply of alcohol as an activity authorised by the licence;
- (f) authorise the retail sale or supply of alcohol between 23:00pm and 07:00am;

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- (g) authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied;
- (h) include the alternative condition regarding the supervision of alcohol sales; or
- (i) increase the area for consumption of alcohol.

**9.5. MAKING AN APPLICATION FOR MINOR VARIATION**

9.6. We will normally accept and, where appropriate, consider those applications that comply with the legislative requirements and are accompanied by the following –

- (a) a completed application form (inclusive of any volunteered conditions);
- (b) the relevant premises licence documents (where appropriate);
- (c) a plan of the premises (where appropriate); and
- (d) the appropriate fee.

**9.7. What we mean by ‘volunteered conditions’**

9.8. Applicants may volunteer any conditions to be imposed on a relevant authorisation as part of the minor variations process.

9.9. Relevant considerations and means of identification of measures that promote the licensing objectives are set out from 6.8 to 6.19 above. The guidance, policies and considerations set out in Part S below are applicable in respect of conditions.

**NB:** Other than volunteered conditions, licensing authorities cannot impose conditions on a relevant authorisation through the minor variations process.

**9.10. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS**

**9.11. Advertising of minor variations**

9.12. Applications for minor variation must be advertised in a similar way and contain similar information to that set out for applications for a premises licence (see Part F). Where appropriate, references in this policy document which cover advertising arrangements for premises licences should also be read and generally be applied for the purposes of any application for minor variation.

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**9.13. Determination of minor variations**

9.14. On receipt of a valid application for minor variation, the Licensing Authority will normally consider the potential effect of the proposed variations and their impact on the promotion of the licensing objectives in light of any existing conditions or conditions volunteered by the applicant.

9.15. The Licensing Authority may also consider the combined effect of any series of applications for successive small changes which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives.

9.16. Where there is any perceived impact on the licensing objectives or, in cases where it is unclear, we will normally consult with as many of the 'Responsible Authorities' as we think fit to canvass their views. While taking into account any 'relevant representation(s)' made by any other person (see Part R), the Licensing Authority will place **significant** weight on the views of any Responsible Authority it has consulted.

9.17. The Licensing Authority will normally refuse the application where it considers that any proposed minor variation (whether considered separately or together (if more than one)) have an adverse effect on the promotion of the licensing objectives. A minor variation will normally be granted as sought if the proposed variations do not have an adverse effect on one or more of the licensing objectives. **NB:** There is no right to a hearing (as for the 'full' variation procedure).

**9.18. Automatic refusal of minor variations**

9.19. By law, an application for minor variation is deemed refused if the Licensing Authority fails to determine it within certain statutory timescales. In these circumstances, the applicant is entitled to a full refund of the fees paid. However, if this is due to an error or fault on our part, we may, with the applicant's agreement, treat the application as a new application (i.e. from the date of agreement) and/or treat the fee originally submitted as the fee for any new application.

## **PART J**

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# **10. SPECIFICATION OF INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR (DPS)**

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### **10.1. SPECIFICATION OF 'DESIGNATED PREMISES SUPERVISOR' (DPS)**

10.2. In every premises licensed for the retail sale of alcohol (except community premises where the requirement for a designated premises supervisor has been disapplied), a personal licence holder must be specified as the 'designated premises supervisor' (DPS).

### **10.3. What we mean by 'designated premises supervisor'**

10.4. The Licensing Authority expects the designated premises supervisor (DPS) will normally be the person who has / will be given day-to-day responsibility for running the premises by the premises licence holder. The Licensing Authority considers that the DPS should be immediately identifiable and have sufficient authority and control of the premises and the activities carried on there to deal with any problems arising there swiftly and effectively.

### **10.5. WHAT WE MEAN BY 'VARIATION TO SPECIFY AN INDIVIDUAL AS 'DESIGNATED PREMISES SUPERVISOR'**

10.6. The holder of a premises licence may, if the licence authorises the retail sale of alcohol) apply to vary the licence so as to specify (i.e. designate) a new individual as the premises supervisor at any time.

### **10.7. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS**

### **10.8. Police objection to designation of Premises Supervisor**

10.9. In exceptional circumstances, the Police may object to the designation of a new premises supervisor where they believe an appointment would undermine the crime prevention objective. Where the Police object, the applicant is entitled to a hearing before the Licensing Committee or one of its Sub-Committees to determine the application, unless all parties agree that a hearing is unnecessary.

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**10.10. Relevant considerations to Police objections**

10.11. Where Police objection to the designation of a new premises supervisor is received, the Licensing Authority will, at any subsequent hearing, confine its consideration of the objections to the prevention of crime and disorder objective only.

10.12. Within the context of the crime and disorder objective, the Licensing Authority will normally have regard to the degree and extent to which the matters or circumstances giving rise to the objections are genuinely exceptional. While not exhaustive, the Licensing Authority may consider the following, namely -

- (a) the previous [management] record of the proposed individual;
- (b) the propriety of the proposed individual;
- (c) the criminal history of the proposed individual;
- (d) the (in)experience of the proposed individual; and
- (e) the circumstances / history of the premises which the proposed individual is to supervise.

10.13. As a DPS is expected (as appropriate) to exercise authority and control over the premises to which they have been designated, together with the activities carried on there, the Licensing Authority considers that the position of DPS carries with it **significant** responsibility. The Licensing Authority will therefore, within the context of the crime and disorder objective, consider any Police objections with this level of responsibility in mind.

10.14. The Licensing Authority will also take account of anything an applicant or individuals representing them, say about the application or the status of the proposed individual.

10.15. In circumstances where individuals take up their post as a designated premises supervisor immediately (subject to application for immediate effect), the Licensing Authority may, where it is entitled to do so, consider whether the individual should be removed from the post.

**10.16. Review of DPS arrangements**

10.17. The Licensing Authority reminds licence holders and designated premises supervisors that any Responsible Authority and/or other person may seek (amongst other matters) the removal of a designated premises supervisor on review of the premises licence.

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10.18. Where application for review is made, the Licensing Authority may, where appropriate, similarly consider those matters identified in 10.10 to 10.15 above in determination of the review (see also Part N).

## **PART K**

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### **11. VARIATION TO DISAPPLY THE REQUIREMENT FOR A PREMISES SUPERVISOR**

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#### **11.1. WHAT WE MEAN BY 'DISAPPLICATION OF THE REQUIREMENT FOR A PREMISES SUPERVISOR'**

11.2. In certain circumstances, Community premises may apply to vary their premises licence to disapply certain mandatory conditions, which require a premises supervisor. The effect of disapplication means that sales of alcohol may lawfully be made on such premises without the authorisation of a personal licence holder and that the premises may operate without a Designated Premises Supervisor (DPS).

11.3. While no other conditions may be disappplied by this procedure, such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The effect of the procedure means that the licence holder (i.e. the management committee) becomes responsible for the supervision and authorisation of alcohol sales on the premises.

#### **11.4. What we mean by 'community premises'**

11.5. The Licensing Authority will normally take the term 'Community premises' to include places such as church halls, chapels, community and village halls or some other similar building. While usually self-evident whether premises form part of Community premises; the Licensing Authority may consider on a case by case basis, how the premises are predominantly used and, whether they are genuinely made available for community benefit most of the time, are accessible by a broad range of individuals and sectors of the local community and whether they are available for purposes which include purposes beneficial to the community as a whole.

11.6. The Licensing Authority considers the fact that premises are available for private hire to the general public is not itself sufficient to qualify premises as 'Community premises'. Where appropriate, the Licensing Authority may consider whether premises used largely for private hire by individuals or private entities are genuinely, by their nature, 'Community premises', as reflected in their predominant use, and not only in the usefulness of the premises for members of the community for private purposes.

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11.7. The Licensing Authority will **not** normally consider premises to be Community premises where use of the premises is contingent upon membership of any particular organisation. However, the hire of the premises to individual organisations and users who restrict their activities to their own members and guests would not necessarily conflict with the status of the premises as 'Community premises', provided the premises are generally available for use by the community in the sense described above.

**11.8. What we mean by 'management committee'**

11.9. The Licensing Authority will normally take the terms 'management committee' or 'board of individuals' to mean any formally constituted, transparent and accountable management committee or structure which has the capacity to provide sufficient management and oversight of the premises to minimise any risks to the licensing objectives.

**11.10. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS**

**11.11. Management of the premises**

11.12. Before it may grant disapplication, the Licensing Authority must be satisfied that arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of alcohol sales on the premises. The Licensing Authority therefore expects applicants to clearly set out how the premises is managed, its committee structure and how the supervision of alcohol sales is to be ensured in different situations (e.g. when the premises are hired for private parties). The Licensing Authority also expects details of how responsibility for this is to be determined in individual cases and/or reviewed by the committee in the event of any issues arising.

11.13. In deciding whether management arrangements are suitable, the Licensing Authority will normally consider and, strongly recommends that applicant committees submit their applications with copies of any constitution or other relevant management documents that, in addition to the matters detailed above, show the structure, contact details and relationship of its key officers e.g. Chair, Secretary, Treasurer etc. The Licensing Authority will similarly consider the use and hire of the premises by third parties and expects effective hiring agreements to be in place, particularly for events that include the sale of alcohol. We similarly recommend the submission of all relevant hire agreements (where applicable).

11.14. Where arrangements are not clear, we may ask for further details or information to confirm that the management committee is properly constituted and accountable before taking any decision on whether to grant the application (subject to the views of the Police).

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**11.15. Police objection to disapplication of Premises Supervisor**

11.16. In exceptional circumstances, the Police may object to a request for disapplication where they believe it would undermine the crime prevention objective. Where the Police object, the applicant committee is entitled to a hearing before our Licensing Committee or one of its Sub-Committees to determine the application, unless all parties agree that a hearing is unnecessary.

**NB:** The Police are the only Responsible Authority that may make representations about this type of application. However, any Responsible Authority and/or other person can seek the reinstatement of the relevant mandatory conditions on review of the licence.

**11.17. Relevant considerations to Police objections**

11.18. Where Police objection is received, the Licensing Authority will, at any subsequent hearing, confine its consideration of the objections to the prevention of crime and disorder objective only.

11.19. Within the context of the crime and disorder objective, the Licensing Authority will have regard to the degree and extent to which the matters or circumstances giving rise to the objections are genuinely exceptional. While not exhaustive, the Licensing Authority may consider the following, namely -

- (a) the previous [management] record of the premises;
- (b) the [proposed] management arrangements of the premises;
- (c) the criminal history of any individuals in the [proposed] management committee;
- (d) the (in)experience of the [proposed] committee;
- (e) any incident history at the premises; and
- (f) the circumstances, nature and/or use of the premises and the activities provided there (inclusive of hire arrangements).

11.20. As disapplication effectively makes the licence holder (i.e. the management committee) responsible for the supervision and authorisation of alcohol sales on the premises, the Licensing Authority considers that the position of those in the committee carries with it **significant** responsibility. The Licensing Authority will therefore, within the context of the crime and disorder objective, consider any Police objections with this level of responsibility in mind.

11.21. The Licensing Authority will also take account of anything an applicant or individuals representing them, say about the application or the status of the proposed individual.

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**11.22. Maintenance of suitable management arrangements**

11.23. Management committees are strongly encouraged to notify the Licensing Authority, together with the Police of any key changes in their committee's composition (e.g. to the Chair, Secretary, Treasurer etc.).

11.24. We would caution that failure to do so may form the basis of a legitimate review of the premises licence, or be taken into account in determination of any subsequent application.

**11.25. Review of disapplication arrangements**

11.26. The Licensing Authority reminds those who have disappplied relevant requirements that any Responsible Authority and/or other person may seek (amongst other matters) the reinstatement of the relevant mandatory conditions on review of the premises licence.

11.27. Where application for review is made, the Licensing Authority may, where appropriate, similarly consider those matters identified in 11.17 to 11.21 above in determination of the review (see also Part N).

## **PART L**

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### **12. TRANSFER OF PREMISES LICENCE**

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#### **12.1. WHAT WE MEAN BY 'TRANSFER OF A PREMISES LICENCE'**

12.2. Any person that may apply for a premises licence may apply for an existing premises licence (held by someone else) to be transferred to them so that they become the premises licence holder (e.g. when a business involving licensable activities is sold to a new owner). A transfer effectively changes the identity and responsibilities of the licence holder and, while a transfer can take immediate effect pending determination of a transfer application, a transfer does not alter the licence in any other way.

#### **12.3. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS**

#### **12.4. Police objection to transfer of a premises licence**

12.5. In exceptional circumstances, the Police may, within a limited period following its receipt, object to an application for transfer where they believe it would undermine the crime prevention objective. Where the Police object, the applicant is entitled to a hearing before the Licensing Committee or one of its Sub-Committees to determine the application, unless all parties agree that a hearing is unnecessary.

#### **12.6. Relevant considerations to Police objections**

12.7. Where Police objection to a transfer is received, the Licensing Authority will, at any subsequent hearing, confine its consideration of the objections to the prevention of crime and disorder objective only.

12.8. Within the context of the crime and disorder objective, the Licensing Authority will have regard to the degree and extent to which the matters or circumstances giving rise to the objections are genuinely exceptional. While not exhaustive, the Licensing Authority may consider the following, namely -

- (a) the previous [management] record of the transferee;
- (b) the criminal history of transferee;
- (c) the involvement in crime and disorder of any business or individuals linked to the transferee;
- (d) any incident history at the premises; and

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(e) the circumstances, nature and/or use of the premises and the activities provided there.

12.9. As a transfer effectively makes the transferee the licence holder for the premises, the Licensing Authority considers that the position carries with it **significant** responsibility. The Licensing Authority will therefore, within the context of the crime and disorder objective, consider any Police objections with this level of responsibility in mind.

12.10. The Licensing Authority will also take account of anything an applicant or individuals representing them, say about the application or the status of the transferee.

**12.11. Reviews of premises licence and arrangements**

12.12. The Licensing Authority reminds those to whom a licence is transferred that any Responsible Authority and/or other person may seek a review of the premises licence at any time.

12.13. Where application for review is made, the Licensing Authority may, where appropriate, similarly consider those matters identified in 12.6 to 12.10 above in determination of the review (see also Part N).

## **PART M**

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### **13. INTERIM AUTHORITY NOTICES**

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#### **13.1. WHAT WE MEAN BY 'INTERIM AUTHORITY NOTICE'**

13.2. Ordinarily, a premises licence will lapse on the death, incapacity or insolvency of the holder. An interim authority notice is a special arrangement that allows for the continuation of permissions under a premises licence in circumstances when the licence holder dies suddenly, becomes bankrupt or mentally incapable.

13.3. The effect of an interim authority notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence. This allows licensable activities to continue under authorisation of the premises licence for a maximum period of two months pending its formal disposal or transfer.

**NB:** Applicants should note that an interim authority notice ceases to have effect and that any associated premises licence will lapse, unless an application to transfer it is made within the two-month period. The carrying on of licensable activities may therefore be unlawful in these circumstances.

#### **13.4. Who can give an interim authority notice**

13.5. The procedure is normally available to a person with a legal interest in the premises as freeholder or leaseholder, or by a person connected to the former holder of the licence.

#### **13.6. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS**

13.7. An interim authority notice may be given to the Licensing Authority within a limited period beginning the day after the day the licence technically lapsed. The notice becomes effective as soon as it is served on the Licensing Authority within this time and the premises may continue to be used for the provision of permitted licensable activities.

#### **13.8. Police objection to interim authority notice**

13.9. In exceptional circumstances, the Police may, within a period of 48 hours of its receipt, serve notice on the Licensing Authority where they believe that failure to cancel the interim authority notice would undermine the crime prevention objective. Where the Police serve such a notice, the Licensing Authority will hold a hearing to decide whether or not to cancel the interim authority notice.

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**13.10. Relevant considerations to Police objections**

13.11. Where Police objection to the interim authority notice is received, the Licensing Authority will, at any subsequent hearing, confine its consideration of the objections to the prevention of crime and disorder objective only.

13.12. Within the context of the crime and disorder objective, the Licensing Authority will have regard to the degree and extent to which the matters or circumstances giving rise to the objection(s) are genuinely exceptional. While not exhaustive, the Licensing Authority may consider the following, namely -

- (a) the previous [management] record of the relevant individuals;
- (b) the propriety of the relevant individuals;
- (c) the criminal history of the relevant individuals;
- (d) the (in)experience of the proposed individuals; and
- (e) the circumstances / history of the premises which the relevant individual(s) seek to maintain.

13.13. As an interim authority notice effectively reinstates the premises licence as if the person giving the notice is the holder of the licence, the Licensing Authority considers that the use of such a notice carries with it **significant** responsibility. The Licensing Authority will therefore, within the context of the crime and disorder objective, consider any Police objections with this level of responsibility in mind.

13.14. The Licensing Authority will also take account of anything a relevant individual or individuals representing them, say about the notice or the status of the relevant individuals concerned.

## PART N

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### 14. REVIEW OF A RELEVANT AUTHORISATION

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#### 14.1. WHAT WE MEAN BY 'REVIEW'

14.2. Where a relevant authorisation has effect, a Responsible Authority or any other person, may apply to the Licensing Authority to review the authorisation because of some matter arising at the premises that affects one or more of the licensing objectives. A review of a relevant authorisation will also normally follow any action by the Responsible Authorities to close down premises for up to 48 hours and on order of the Courts.

#### 14.3. GENERAL PROCESS & OTHER RELEVANT CONSIDERATIONS

#### 14.4. Notification of Responsible Authorities and licence holder

14.5. A copy of any application for review, together with accompanying documents (if any) must be given to the holder of the relevant authorisation **on the same day** on which it is submitted to the Licensing Authority, by the applicant.

14.6. So as to ensure that the application procedure has been correctly followed, it is the policy of the Licensing Authority to check with the premises licence holder that they have received a copy of a review application. Failure to give a copy of the application of review to the premises licence holder on the same day it is submitted to the Licensing Authority will normally render the application invalid / void.

#### 14.7. Rejection of grounds for review

14.8. The Licensing Authority will normally reject any grounds for review where satisfied that it is not relevant to one or more of the licensing objectives or, in the case of a review lodged by an other person if satisfied it is frivolous, vexatious or repetitious.

#### 14.9. What we mean by 'frivolous' and 'vexatious'

14.10. The criteria set out at 18.36 below will normally be applied in determination of these terms.

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**14.11. What we mean by 'repetitious'**

14.12. The Licensing Authority will normally consider a ground for review to be repetitious where it is one that is identical or substantially similar to -

- (a) any grounds for review specified in an earlier application for review made in relation to the same authorisation which has already been determined;
- (b) representations considered by the Licensing Authority when the authorisation was first granted;
- (c) representations which would have been made when the application was first made and which were excluded by reason of the prior issue of a provisional statement;

and, a reasonable interval has not elapsed since the earlier review or the grant of the authorisation.

**NB:** The exclusion of a representation on grounds that it is repetitious does not apply to representations made by Responsible Authorities, which may make more than one request for review within any given period.

**14.13. What we mean by 'reasonable interval'**

14.14. For the purpose of defining a repetitious representation, the Licensing Authority will normally take a reasonable interval to mean a period no shorter than 12 months unless there are compelling circumstances.

**14.15. Advertisement of review**

14.16. The Licensing Authority must advertise any application for review by way of one or more site notices on or adjacent to the premises concerned. The application will also be advertised on the local authority's website [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

14.17. The Licensing Authority generally expects the co-operation of the relevant premises in displaying any such notices and, where appropriate, may check to ensure that any notices remain displayed for the required period. Failure to display any such notices for the required period may be reported to the relevant Licensing Committee.

**14.18. DETERMINATION OF A REVIEW**

14.19. In deciding which of the permitted steps to take, the Licensing Authority will normally seek to address the causes of the relevant concerns that the review and any associated representations identify. However, the Licensing Authority may take one or more permitted steps as a legitimate means of deterring the holder from allowing the problems that gave rise to the review to happen again (e.g. to suspend a licence

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over a weekend). As this may result in a detrimental financial impact, the Licensing Authority will normally only resolve such a deterrent where it is appropriate and proportionate to the promotion of the licensing objectives.

**14.20. Representations and conditions**

14.21. Where reviews arise, the guidance, policies and considerations set out in Part R below will normally be applied in respect of representations and those that can make them, while those set out in Part S below will normally be applied in respect of conditions.

**14.22. Matters of review which may give rise to revocation**

14.23. Where reviews arise, the Licensing Authority will treat the following matters **particularly seriously** and, where appropriate, may consider the revocation of the relevant authorisation – even in first instance – where it determines that the crime prevention objective is being undermined by use of the premises –

- (a) for the sale and distribution of Class A drugs and/or the laundering of the proceeds of drug crime;
- (b) for the sale and/or distribution of illegal firearms;
- (c) for the evasion of copyright in respect of pirated or unlicensed films or music;
- (d) for the purchase and/or consumption of alcohol by minors;
- (e) for prostitution or the sale of unlawful pornography;
- (f) by organised groups of paedophiles to groom children;
- (g) as the base for the organisation of criminal activity (especially by gangs);
- (h) for the organisation of racist activity or the promotion of racist attacks;
- (i) for unlawful gaming and gambling activities; and/or
- (j) for the sale of smuggled alcohol or tobacco, or where the source of the alcohol or tobacco is unknown or untraceable.

**14.24. SUMMARY REVIEWS**

14.25. Where the police consider that a premise licensed for the sale of alcohol by virtue of a premises licence, are associated with serious crime, disorder or both they may make an application for a summary review of a premises licence.

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- 14.26. Where this is the case, the licensing sub-committee will determine what interim steps are appropriate to address the immediate risk of serious crime or serious disorder occurring.
- 14.27. The Licensing Authority will not normally give the premises licence holder an opportunity to make representations prior to determining the interim steps, however may do so where it considers it is appropriate and feasible to do so in the circumstances.
- 14.28. Where the sub-committee determine that the interim steps must take immediate effect, the Licensing Authority will normally notify the premises licence holder in the first instance by the most expedient means possible e.g. telephone call. Following this, the premises licence holder will also be notified in writing.
- 14.29. Following notification of the interim steps the premises licence holder may make written representations at any time between being notified of the interim steps and a subsequent review hearing. The hearing will be held to consider any representations, together with the senior officer's certificate that accompanied the original application and the chief officer's representations (if any). Any hearing panel will consider whether the interim steps are appropriate for the promotion of the licensing objectives, and determine whether to confirm, modify or withdraw the steps taken. This hearing will be held within 28 days of the day after the original application is received.

## **PART O**

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### **15. CLUB PREMISES CERTIFICATES**

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**15.1. What we mean by ‘qualifying club’**

15.2. A club will normally be considered a qualifying club in respect of its activities provided that -

- (a) under the rules of the club, individuals may not be admitted to membership, or be admitted as candidates for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership or their admission;
- (b) under the rules of the club, individuals becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission;
- (c) the club has a minimum of 25 members;
- (d) the club is established and conducted in good faith as a club; and
- (e) alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club; and that certain other conditions on the sale / supply of alcohol are complied with.

15.3. Qualifying clubs should not be confused with proprietary clubs, which are clubs run commercially by individuals, partnerships or businesses for the purposes of profit. Proprietary clubs will require a premises licence and are not eligible for a club premises certificate.

**15.4. What we mean by ‘qualifying club activities’**

15.5. For the purposes of obtaining a club premises certificate, the qualifying club activities include -

- (a) the supply of alcohol by or on behalf of the club to, or to the order of a member of the club;
- (b) the sale by retail of alcohol by or on behalf of a club member or a guest of a member of the club; and,
- (c) the provision of regulated entertainment, where that provision is by or on behalf of the club for members of the club, or members of the club and their guests.

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**15.6. What we mean by ‘established and conducted in good faith’**

15.7. In deciding whether a club is established and conducted in good faith as a club, the Licensing Authority will normally consider the following matters -

- (a) any arrangements restricting the club's freedom of purchase of alcohol;
- (b) any provision in the club rules, or arrangements, under which money or property of the club, or any gain arising from the carrying on of the club is or may be applied otherwise for the benefit of the club as a whole or for charitable, benevolent or political purposes;
- (c) the arrangements for giving members information about the finances of the club;
- (d) the books of account and other records kept to ensure the accuracy of that information; and
- (e) the nature of the premises occupied by the club.

**15.8. GENERAL PROCESS & RELEVANT CONSIDERATIONS**

15.9. Arrangements for applying for or seeking to vary a club premises certificate are similar to those for premises licences (see Part H). References in this policy document which cover the arrangements and considerations for premises licences should therefore be read and generally be applied for the purposes of any applications for the grant or variation of a club premises certificate. The terms ‘applicant’, ‘operating schedule’ ‘relevant authorisation’ and ‘relevant application’ should be construed accordingly.

15.10. The following matters shall, in addition, usually apply both before and after the grant or variation of a club premises certificate.

**15.11. Club rules**

15.12. Clubs must include a copy of the rules of the club with their applications. Any subsequent alteration to the club rules must also be notified to the Licensing Authority as required by law.

15.13. Where the rules of the club indicate that it does not meet the qualifying conditions (see above), a club premises certificate will **not** normally be granted. In the case of notifications of a change to the club rules, the Licensing Authority may issue a notice of withdrawal of its club premises certificate where it appears that the club has ceased to meet the qualifying conditions.

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15.14. By way of ensuring that only qualifying clubs benefit from a club premises certificate, the Licensing Authority will normally return a certified copy of the club rules with any club premises certificate it issues, or following notification of any changes.

**15.15. Representations and conditions**

15.16. The Licensing Authority recognises that the supply of alcohol and the provision of regulated entertainments in clubs, give rise to different issues for licensing law than those presented by commercial enterprises that are open and sell direct to the public.

15.17. The Licensing Authority shall therefore, where it is entitled to do so, consider relevant representations and/or the imposition of conditions to a club premises certificate, with regard to, but not be bound by, the following considerations -

- (a) qualifying clubs are non-profit making clubs.
- (b) qualifying club activities take place on premises to which the public generally do not have access.
- (c) qualifying clubs generally operate under codes of discipline and club rules that apply to their members and guests.
- (d) the costs of conditions attached to a club premises certificate will generally be borne by individual members of the club and cannot generally be recovered by passing costs on to the general public.

**15.18. OTHER MATTERS**

**15.19. Guest arrangements**

15.20. The Licensing Authority notes that the Act does not define the term 'guest' and will therefore normally interpret it by its widest possible meaning to include those invited by the qualifying club or any individual member to use the club facilities.

15.21. In recognition of the above, the Licensing Authority cautions against the management and/or acceptance of guests to the point where the club is either alleged to be, or is in effect, providing commercial services to the general public that is contrary to its qualifying club status.

15.22. To help avoid any risk to their qualifying club status, it is recommended that clubs formally determine the manner in which guests are admitted to their premises and that this be clearly set out in its club rules. To demonstrate this, it is recommended that members of the club generally 'sign in' their guests and that this record be periodically reviewed by relevant officers of the Club Committee.

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**15.23. Hiring and use of club premises / facilities by the public**

15.24. Under the terms of a club premises certificate, a club may only provide qualifying club activities (including the sale / supply of alcohol) to its members and their bona fide guests.

15.25. Therefore, where a qualifying club wishes to offer its facilities commercially for use by the general public (including the sale of alcohol) it may need to apply for a premises licence (see Part F). Alternatively, an individual on behalf of the club may give, subject to the statutory limitations, a temporary event notice (see Part P) to cover any occasion where the club sell alcohol to the public or hire out their premises for use by the public.

**15.26. Withdrawal of club premises certificates**

15.27. The Licensing Authority cautions that it will normally issue a notice of withdrawal of a club premises certificate to any club where it appears that it has ceased to meet any of the qualifying conditions.

## **PART P**

See also  
Appendix B

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# **16. TEMPORARY EVENT NOTICES (TENS)**

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## **16.1. WHO CAN SUBMIT A TEMPORARY EVENT NOTICE**

16.2. A TEN may, subject to statutory limitations, be given to the Licensing Authority by any individual (the 'premises user') aged 18 or over where it is intended to use premises for one or more temporary licensable activities.

## **16.3. What we mean by 'premises user'**

16.4. The Licensing Authority will treat the 'premises user' to be the individual who gave the TEN, their associate or someone who is in business with the relevant premises user in respect of the same premises.

16.5. An 'associate' of a premises user is taken to mean the spouse or civil partner, children, parents, grandchildren, grandparents, brother or sister, an agent or employee or their spouse or civil partner.

## **16.6. TENS vs premises licence**

16.7. A temporary event notice does not preclude an application for, or the holding of, a premises licence (or club premises certificate). However, where one or more of the statutory TEN limitations are exceeded, a full premises licence (or club premises certificate) is required to cover any period where temporary licensable activities are to be provided.

## **16.8. Predictable nature of temporary events**

16.9. The Licensing Authority expects that temporary licensable activities that are generally predictable and are anticipated to occur on regular occasions, be regulated by a premises licence (or club premises certificate).

## **16.10. STATUTORY LIMITATIONS**

### **16.11. Premises and activity limitations**

16.12. A TEN may only be served on the Licensing Authority where -

- (a) the temporary event and activities do not exceed 168 hours in duration;

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- (b) the temporary event and activities do not involve the presence of more than 499 people at any one time (including staff and entertainers);
- (c) there has been a minimum of 24 hours between different temporary events by the same premises user or an associate, in respect of the premises;
- (d) the same premises has not been used for temporary events with licensable activities on no more than 15 occasions in a calendar year; and
- (e) the maximum aggregate duration of the periods covered by TENs at the premises is no more than 21 days in a calendar year.

**16.13. Premises user limitations**

16.14. The number of TENs given by a personal licence holder is limited to 50 notices in one calendar year (10 of which can be late TENs), whilst the number of notices given by a non-personal licence holder is limited to 5 notices in one calendar year (2 of which can be late TENs).

**16.15. RELEVANT CONSIDERATIONS & THE NOTICE PROCESS**

**16.16. Statutory notice period**

16.17. All standard TENs must be served on the Licensing Authority at least **10 working days** before the day on which the event begins. Any TEN served on the Licensing Authority between 5 and 9 working days before the date on which the event begins will be considered a Late TEN.

**NB:** The Licensing Authority has no discretion and, will **NOT** accept TENs served on it with less than 5 working days before the day on which the event specified in any TEN begins.

**16.18. What we mean by 'working days'**

16.19. Working days do not include a Saturday or Sunday, Christmas Day, Good Friday or any other bank or public holiday. The minimum statutory notice period shall also be taken to be exclusive of the day on which the event is to start and, exclusive of the day on which the notice is given.

**16.20. Liaison with Responsible Authorities**

16.21. The Police and Environmental Health are the only Responsible Authorities that may make representations about a TEN. Event organisers are therefore encouraged to contact these agencies at the earliest possible opportunity about their proposals. However, so that

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the Police and Environmental Health can make a sensible assessment about any proposed event, TENs should not be submitted too far in advance of the event and no more than 6 months beforehand.

**16.22. Liaison with other agencies**

16.23. In recognition of their roles and responsibilities, together with the possible impact of temporary events, the Licensing Authority will, at the earliest practicable opportunity, normally notify the following bodies of any temporary event proposals it receives -

(a) RBC Health & Safety; and

(b) RBC Planning.

**NB:** These agencies cannot make representations about a temporary event notice and shall not be treated as 'consultees' for this purpose.

**16.24. NOTIFIED PREMISES**

**16.25. Nature of premises used under a TEN**

16.26. A TEN may be given for either entire premises or part of a building / location e.g. a single room within a village hall, a plot within a larger area of land etc.

**16.27. Address(es) against which TENs are recorded**

16.28. In recognition of the above and the statutory limits, the Licensing Authority shall normally record any TEN against the general address for the entire premises / site to which the TEN relates unless it includes a clear and precise description of the area where the licensable activities will take place.

16.29. The Licensing Authority recommends that where part of a building / location are to be used, that a TEN be submitted with a plan / map that identifies the exact location where the licensable activities will take place. For plots within a larger area of land, it is recommended that any plan / map show the dimensions of the area where the licensable activities will take place together with sufficient measurements from a number of fixed reference points so as to pinpoint the area concerned. Map reference co-ordinates sufficient to detail the dimensions of the area in which temporary licensable activities will take place may also be useful.

**16.30. CHECKING THE STATUTORY LIMITS & COUNTER NOTICES**

**16.31. Checking the statutory limits**

16.32. The Licensing Authority will, on receipt of a TEN, check whether any statutory limits have been exceeded.

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16.33. In determining whether the statutory limit of 15 TENs at any individual premises in a calendar year has been exceeded, the Licensing Authority will normally count and include any relevant TENs previously served on it that used or proposed to use the same or **any** part of the same premises / area within the relevant period.

16.34. In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, any event beginning before midnight and continuing into the next day shall normally be taken to count as two days within the relevant period.

**16.35. Serving a counter notice**

16.36. Where any statutory limits are exceeded, the Licensing Authority must serve the premises user with a counter notice (not later than 24 hours before the beginning of the event). Any counter notice will normally be copied to the relevant Responsible Authorities.

16.37. As far as they relate to the venue and/or premises user, temporary licensable activities are **not** permitted where a counter notice has been served.

16.38. Any TEN served on the Licensing Authority and subject to counter notice will be disregarded and void and the premises user liable to prosecution where knowingly carried on.

**16.39. OBJECTION NOTICES**

16.40. Where the Police and/or Environmental Health are satisfied that allowing a premises to be used in accordance with a TEN will undermine the licensing objectives they may serve an objection notice, stating their reasons, on both the Licensing Authority and the premises user within 3 working days of receiving the TEN.

16.41. If the Licensing Authority receives such a notice from the Police or Environmental Health in respect of a standard TEN, it will normally hold a hearing to consider the objection(s), unless the Licensing Authority, relevant Responsible Authority and premises user agree a hearing is not necessary. Where appropriate for the promotion of the licensing objectives, the Licensing Authority may give the premises user a counter notice, or where there is a premises licence in effect for the location where the event is to be held, may attach any of the conditions from the Premises Licence to the TEN.

16.42. Where the Licensing Authority receives such a notice from the Police or Environmental Health in respect of a Late TEN, the Licensing Authority will issue the premises user with a counter notice, and the licensable activities will not be permitted to go ahead.

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**16.43. ACKNOWLEDGEMENT OF TENS**

16.44. Where –

- (a) on holding a hearing, the Licensing Authority does **not** consider it appropriate for the promotion of the licensing objectives to give the premises user a counter notice; or
- (b) a TEN falls within the limitations of the Act, is in order and, there has been no objection notice;

... the Licensing Authority has no discretion but to acknowledge the TEN to give it effect.

16.45. By way of giving effect to the TEN, the Licensing Authority will send an acknowledged copy (duly stamped by the Licensing Authority) of the TEN to the premises user.

**16.46. THIRD PARTY USERS**

16.47. The Licensing Authority advises owners / occupiers of premises to monitor the number of TENS submitted in respect of their premises. These arrangements should be sufficient to cover both their own use and that of other potential premises users.

**16.48. Management and supervision of TENS**

16.49. While premises users are not required to be on the premises for the duration of any TEN event, they remain liable for certain offences that may be committed if the event is not adequately managed / supervised. It is therefore strongly recommended that those matters detailed in **appendix B** be considered and, where appropriate, implemented at all temporary events involving licensable activities and/or provided under authorisation of a TEN.

16.50. In particular, the Licensing Authority encourages premises users and organisers of temporary events to consider local residents and the concerns of the occupiers of premises adjacent to the proposed venue of temporary events.

**16.51. Monitoring and compliance**

16.52. The Licensing Authority will enforce the provisions of the Act and treat temporary events as unauthorised where there is a failure to adhere to the requirements of the Act and/or the limitations outlined above. In such circumstances, the premises user may be liable to prosecution.

16.53. In particular, the Licensing Authority would remind premises users of the laws governing the sale of alcohol to minors or persons who are

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drunk, together with Police and local authority powers to close down events (with no notice) on grounds of disorder, the likelihood of disorder or because of public nuisance caused by noise emanating from the premises.

- 16.54. By way of monitoring compliance with their limitations and to ensure that they are not abused, the Licensing Authority may occasionally inspect premises being used under a TEN.

## **PART Q**

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### **17. PERSONAL LICENCES**

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#### **17.1. APPLICATION STANDARDS & CONSIDERATIONS**

#### **17.2. Issues in respect of the disclosure of convictions**

17.3. Every personal licence applicant must submit the following as part of their application; namely -

- (a) a prescribed disclosure certificate;
- (b) the statutory declaration of convictions form;
- (c) copies of document(s) which evidence their right to work in the UK

17.4. The above requirements apply to both applicants ordinarily resident in England & Wales as they do to any person from or who has ever resided in a foreign jurisdiction.

17.5. Applicants are warned that the making of a false declaration for the purpose of obtaining a licence is a criminal offence for which they may be prosecuted and the licence revoked.

17.6. Applicants are also advised that a personal licence lapses in the event that the licence holder no longer has the right to work in the UK.

#### **17.7. Liaison with the Police**

17.8. In all cases, the Licensing Authority will liaise with and notify the Police of any applicant and conviction details where the applicant is found to have a conviction for a relevant or foreign offence.

#### **17.9. Police objections and hearings**

17.10. Where an applicant for a personal licence is found to have an unspent conviction for a relevant or foreign offence, only the Police may object to the application on crime prevention grounds. Where the Police object, the applicant is entitled to a hearing before the Licensing Committee or one of its Sub-Committees unless all parties agree that a hearing is not necessary.

#### **17.11. Relevant considerations on Police objection**

17.12. Because of its potential impact on the wider community and on crime and anti-social behaviour generally, we believe that the authorisation of

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the sale and supply of alcohol carries with it a **significant** responsibility. Accordingly, where there is Police objection, the Licensing Authority will normally reject applications for a personal licence where appropriate for the promotion of the crime and disorder objective unless there are exceptional and compelling circumstances to justify the granting of the application.

17.13. In deciding whether there are exceptional and compelling circumstances to justify the granting of such an application, the Licensing Authority may, where it is entitled to do so, consider the following matters; namely -

- (a) the nature of any offences committed;
- (b) the propensity to re-offend; and
- (c) the risks to the community.

17.14. These matters are not exhaustive and each case will be decided objectively on its own merits.

17.15. In all cases, the Licensing Authority will take account of anything an applicant or individuals representing them, say about their application or status.

**17.16. CONVICTIONS & LIAISON WITH THE COURTS**

**17.17. Duties of personal licence holders**

17.18. We remind all our personal licence holders that they are statutorily obliged to advise both the Courts and the Licensing Authority, if, following grant of their personal licence, they are convicted of a relevant or foreign offence. Failure to notify a UK Court at the time of appearance or hearing leading to a relevant conviction, or otherwise tell the Licensing Authority of any such conviction, is an offence.

**17.19. Failure of personal licence holders to advise of offences**

17.20. In recognition of their responsibilities, the Licensing Authority will normally seek prosecution of a personal licence holder where (s)he fails to notify the Court at the time of appearance or hearing leading to a relevant conviction, or otherwise tell the Licensing Authority, of any convictions for a relevant or foreign offence.

**17.21. Notifications of relevant convictions or foreign offence**

17.22. On receipt of any notification of conviction of a personal licence holder for a relevant or foreign offence, the Licensing Authority will provide the personal licence holder 14 days to produce the licence to the authority. Where the personal licence holder does not respond within this timeframe, we will normally advise the Chief Officer of Police for the area in which the licence holder resides for action as may be appropriate.

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- 17.23. Where a licence is produced following conviction of the personal licence holder for a relevant or foreign offence, the Licensing Authority will refer the matter to the police for their opinion as to whether any action should be taken in respect of the personal licence.
- 17.24. Where the police and / or Licensing Officer believe it is appropriate for action to be taken in order to promote the licensing objectives, a hearing of the Licensing Sub-committee will be held to determine what action, if any, should be taken.
- 17.25. Where the licence is not forfeited, the Licensing Authority will record the conviction and endorse the licence with details of any action taken, both by the Court and the Licensing Authority.

## PART R

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# 18. REPRESENTATIONS RESPONSIBLE AUTHORITIES & OTHER PERSONS

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### 18.1. GENERAL

18.2. When dealing with applications for grant, variation or the review of a relevant authorisation, the Licensing Authority may, where appropriate, consider representations from two categories of individuals / bodies. These are referred to as '**Responsible Authorities**' and '**other persons**'.

### 18.3. RESPONSIBLE AUTHORITIES

#### 18.4. What we mean by 'Responsible Authority'

18.5. '**Responsible Authorities**' are public bodies that must be fully notified of applications and are entitled to make representations to the Licensing Authority in respect of applications for grant or variation of a relevant authorisation. **NB:** Responsible Authorities may also seek a review of a relevant authorisation.

#### 18.6. The Responsible Authorities

18.7. The Licensing Authority will only recognise the Responsible Authorities prescribed in law and, where it is entitled to do so, those otherwise designated by it.

18.8. A list of all the Responsible Authorities, together with their contact details can be found online at [www.rushmoor.gov.uk](http://www.rushmoor.gov.uk).

### 18.9. OTHER PERSONS

#### 18.10. What we mean by 'other persons'

18.11. '**Other persons**' include anyone other than Officers of the Responsible Authorities (or a body representing them) who may make representations to the Licensing Authority. Locally elected Councillors are also 'other persons' and may make representations in their own right. **NB:** Other persons may also seek a review of a relevant authorisation.

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**18.12. MAKING REPRESENTATIONS**

**18.13. Recommended actions before submitting representations**

18.14. The Licensing Authority encourages all those considering making representations to contact and, where appropriate, reach agreement with the applicant before submitting them. Alternatively, other persons that do not wish to approach the applicant may wish to contact the Responsible Authorities about their representations at the earliest possible opportunity.

**18.15. Confirmation of negotiations / modifications**

18.16. Where a Responsible Authority or interested party negotiate any arrangements, conditions or other modifications to a relevant application, they must ensure that the applicant (or the applicant's representatives) confirm those changes with the Licensing Authority (in writing) at the earliest possible opportunity. The Licensing Authority cannot accept any informally negotiated / agreed modifications to a relevant application or otherwise transpose them into conditions of the relevant authorisation (if granted) if the applicant does not formally accept the changes within the relevant representation period.

18.17. As not all parties will have been made aware of them, it is the view of the Licensing Authority that any changes that have a negative or detrimental impact may need to be re-advertised in the prescribed manner. For these purposes the term 'negative or detrimental impact' will normally be considered in its widest sense but generally taken to mean no additional impact, impairment or disadvantage to or on –

(a) on the promotion of the licensing objectives, permitted hours, capacity or some other specific term; and/or

(b) the Responsible Authorities or other persons to make representations and/or suitably respond to any changes in a timely manner.

18.18. For these purposes, the criteria used to define minor variations shall be used to assess the substantive nature of any proposed changes.

**18.19. The effect of negotiations / modifications**

18.20. In all cases, the Licensing Authority will normally take any formally confirmed / notified negotiations / modifications to be a change to the original operating schedule of the relevant application.

**18.21. The impact of negotiations / modifications**

18.22. All parties are requested to ensure that anything that is agreed between them is clear, unambiguous and coherent.

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**18.23. Notification of negotiations / modifications**

18.24. So that they may make informed judgements on their impact, the Licensing Authority will normally notify all Responsible Authorities of any formal modifications to an application received within the period allowed for making representations. We will however only notify such changes to other persons where representations have been made, or where we have otherwise been requested to do so.

**18.25. WHERE REPRESENTATIONS ARE (TO BE) SUBMITTED**

**18.26. Dual nature of representations**

18.27. Representations may be made both in opposition to, or in support of, a relevant application. The remainder of this section must therefore be read with this dual nature in mind.

**18.28. General requirements of representations**

18.29. The Licensing Authority will normally expect representations to be made in writing (including by electronic means), setting out the name and address of the person / organisation making it and the premises to which it refers. Any representation must also set out the reasons for making it and the point of issue to which it relates. However, for the reasons set out in the following paragraphs, it is recommended that the main points of any representations are set out under the individual headings of the licensing objectives.

18.30. In the case of other persons, it may be helpful to state the impact that they believe the application will have on them or those they are representing and describe any other features that may affect the licensing objectives.

**18.31. Acceptance and significance of representations**

18.32. Where submitted, the Licensing Authority will only accept and consider representations if they are 'relevant'.

18.33. Where '**relevant representations**' are made in respect of a relevant application, the Licensing Authority must hold a hearing to consider the merits of the application unless the applicant, the Licensing Authority and all parties who have made representations agree that a hearing is not necessary.

**18.34. What we mean by 'relevant representations'**

18.35. '**Relevant representations**' are taken to mean representations which -

- (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives (see 3.10 above);

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- (b) were made by a Responsible Authority or any other person within the prescribed period allowed for making representations;
- (c) in the case of representations made by an other person, that they are not, in the opinion of the Licensing Authority, frivolous or vexatious (see 18.36 below); and
- (d) in the case of provisional statements, are not statutorily excluded representations (see 18.39 below).

**18.36. What we mean by ‘frivolous and vexatious’**

18.37. The Licensing Authority will generally consider whether representations are frivolous or vexatious on the basis of fact and degree given the individual circumstances of each case. However, in deciding if representations fall within these terms, the Licensing Authority will normally consider -

- (a) who is making the representation, and whether there is a history of making representations that are not relevant;
- (b) if the representations raise a ‘relevant’ issue; or
- (c) if the representations raise issues specifically to do with the premises that are the subject of the application.

18.38. By way of informing our approach, a vexatious representation will normally be taken to mean one that is repetitive, without foundation or made for some other reason such as malice. A frivolous representation will normally be taken to mean one that is insignificant, lacking in seriousness, or one that does not relate to the licensing objectives.

**18.39. What we mean by ‘excluded representations’**

18.40. The Licensing Authority must consider representations to be ‘excluded representations’ if –

- (a) a provisional statement has already been issued, and a premises licence is subsequently applied for [part of] the premises (or substantially the same premises); and
- (b) the work(s) specified in the provisional statement have been satisfactorily completed; and
- (c) the application for the premises licence is the same form described in the application for the provisional statement; and

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- (d) there has been no material change in circumstances concerning the relevant premises or the area in the vicinity of the premises since the provisional statement was made; and
- (e) the individuals making the representations could have made the same (or substantially the same) representations about the application at the time of the application for the provisional statement, but failed to do so without reasonable excuse.

**18.41. Determination of the relevance of representations**

18.42. In determination of the relevance of representations, the Licensing Authority will take care to distinguish between and determine each separate element of the term 'relevant representation' and associated definitions (see 18.34 above). This will normally involve considerations of –

- (a) whether or not the representation is admissible (i.e. made by an Responsible Authority / other person);
- (b) that the representation has been made within the prescribed period; and
- (c) that the substance of the representation is relevant (i.e. is about the likely effect on one or more of the licensing objectives).

18.43. The considerations outlined in this section are not exhaustive and therefore, the Licensing Authority will not apply rigid rules to its decision-making in determining the relevance of representations and/or the status of other persons. Each case will be decided objectively on its own merits on consideration of the facts and their degree.

18.44. The Licensing Authority will normally take account of anything a Responsible Authority, any other person or individuals representing them, say about their representations or status. In borderline cases, where it is arguable whether a representation is a relevant representation or not, the benefit of the doubt will normally be given to the party making representations.

**18.45. The weight attached to relevant representations**

18.46. While it is a matter for the Licensing Authority to determine what weight to attach to representations, additional weight may be given to those representations supported by credible evidence of the points being made.

18.47. The Licensing Authority therefore encourages both Responsible Authorities and other persons to provide as much evidence as possible with their representations that demonstrate the points raised.

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18.48. In respect of prospective use of premises, other persons should detail any matter that may impact on the licensing objectives.

**NB:** Subject to our policies on the disclosure of personal details (see 18.51 below) representations and associated evidence may only be used on agreement that a copy is given to the applicant / licence holder.

**18.49. Non-relevant representations**

18.50. The Licensing Authority will not consider representations to be relevant if they relate to demand, competition or the need for licensed facilities (see 3.36 above). However, the Licensing Authority may, in an area covered by any special policy, consider need, demand and / or competition only if it is relevant to, and impacts upon, the licensing objectives.

**18.51. The details of individuals making representations**

18.52. The Licensing Authority will, as far as is reasonably practicable, remove the personal details (e.g. name and address) of individuals making representations from any public documents that it may produce.

18.53. However, the Licensing Authority recognises that it is a matter of natural justice that the applicant and his/her representatives, are able to identify and locate those making representations about the premises concerned. Therefore, unless specifically requested not to disclose personal details, the personal details of anyone making representations may be released to the applicants and their representatives.

18.54. Those who specifically request the Licensing Authority not to disclose their personal details should be aware that their representations may carry less weight at any hearing.

**18.55. Representations submitted in the form of a petition**

18.56. The Licensing Authority will accept representations submitted in the form of a petition, provided that they meet the requirements of a 'relevant representation' as detailed above.

18.57. Any petition should state the name and contact details of a representative who the Licensing Authority should liaise with in respect of the representations, and the subsequent hearing. The Licensing Authority will send all correspondence to the named individual, and they will be responsible for informing all other signatories.

18.58. If a hearing is necessary, the named individual will be required to notify the Licensing Authority of any individual who wishes to speak on behalf of the signatories at the hearing.

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18.59. Where an individual makes a representation in their own right in respect of an application, their signature will not be accepted as a valid signatory on any petition unless the substance of the representation is different.

## **PART 5**

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### **19. CONDITIONS & RESTRICTIONS**

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#### **19.1. GENERAL**

#### **19.2. What we mean by ‘conditions’**

19.3. Conditions include any terms, limitations or restrictions attached to a relevant authorisation and are essentially the steps a licence holder will be required to take or refrain from taking whenever licensable activities are provided.

#### **19.4. Multiple sources of conditions**

19.5. Where appropriate and it is required / entitled to do so, the Licensing Authority may grant or vary a relevant authorisation in accordance with the principles set out in this section, subject to any –

- (a) mandatory conditions;
- (b) conditions imposed following any hearing; and
- (c) conditions consistent with the operating schedule.

#### **19.6. What we mean by ‘mandatory conditions’**

19.7. ‘Mandatory conditions’ are taken to mean those conditions that are automatically applied by the Act to authorisations that allow the provision of certain types of licensable activities.

#### **19.8. What we mean by ‘consistent with the operating schedule’**

19.9. The Licensing Authority will normally interpret the term ‘consistent with the operating schedule’ to mean that the effect of conditions should be substantially the same as that intended by the terms of the operating schedule, including any amendments or negotiated conditions agreed with the Responsible Authorities and other persons.

#### **19.10. General principles of transposition and imposition of conditions**

19.11. The Licensing Authority believes that licensing is about the control of licensable activities on relevant premises and the promotion of the licensing objectives. The Licensing Authority will therefore, where it is entitled to do so, normally impose conditions only in respect of matters that are within the control of the applicants or the holders of relevant authorisations or others in control of relevant activities.

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19.12. A key concept of the Act is that conditions attached to relevant authorisations should be tailored to the individual size, style and characteristics of the premises concerned and the activities provided there. Accordingly, the Licensing Authority will, where it is entitled to do so, normally impose conditions only where appropriate to promote the licensing objectives.

19.13. To this end, the Licensing Authority will seek to avoid standardised, disproportionate and/or over burdensome conditions wherever reasonably practicable and will, where it is entitled to do so, normally seek to ensure that conditions –

- (a) are only imposed where legal authority exists to do so;
- (b) are reasonable;
- (c) are proportionate to any risks / problems identified;
- (d) directly relate to any harms being addressed;
- (e) are consistent in the circumstances;
- (f) are capable of being complied with by the relevant licence holder;  
and
- (g) do not unjustifiably duplicate the requirements of other legislation.

19.14. Where a condition (other than one proposed by the applicant) is to be added to a relevant authorisation (e.g. at a hearing), the Licensing Authority will, where it is entitled to do so, normally seek to -

- (a) draw any conditions from its pool of model conditions where this is appropriate (see 19.23 below); or
- (b) formulate any conditions on consideration of relevant matters raised at a hearing and/or the general policies / recommendations detailed in **appendix C**;
- (c) consider whether alternative means are available to address the risks / problems identified; and
- (d) give reasons for imposing the conditions / restrictions where appropriate.

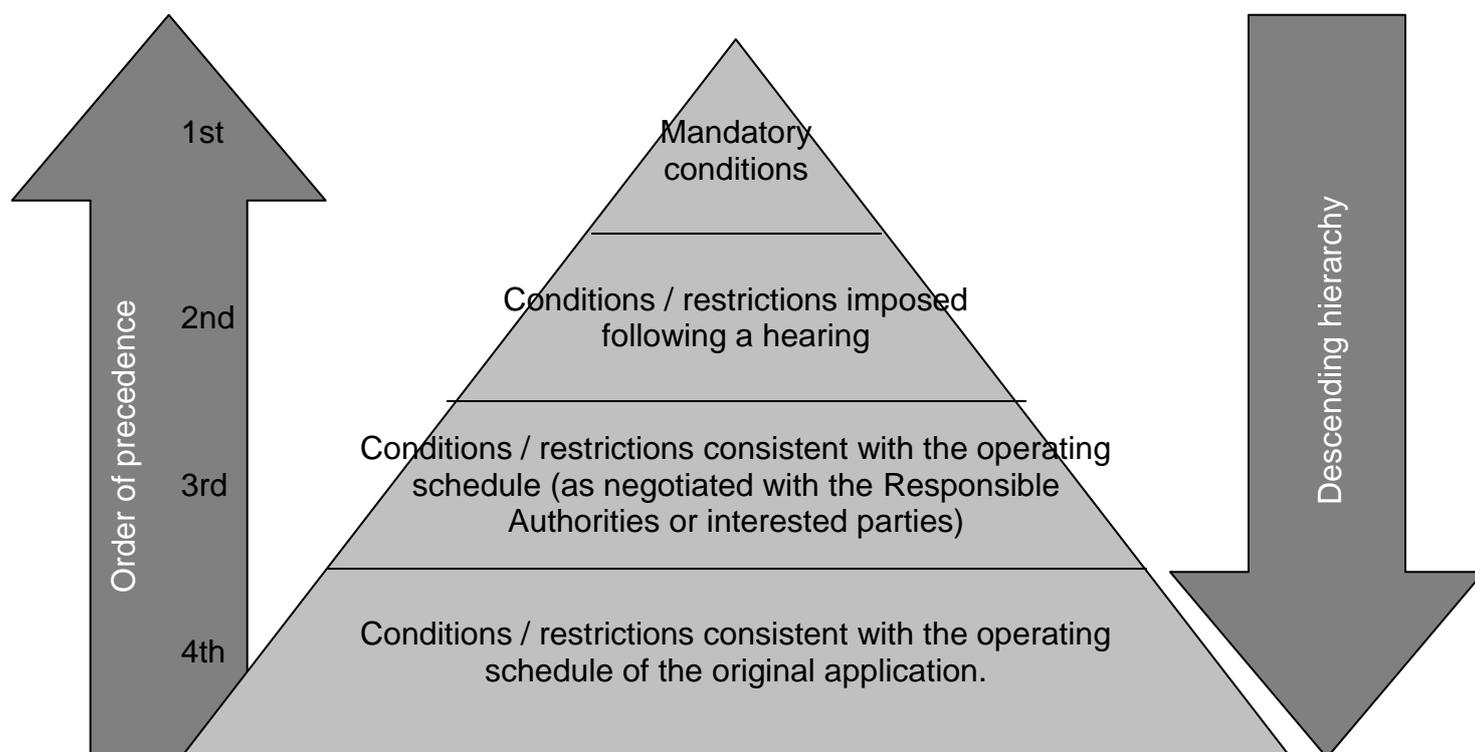
19.15. In all cases, the Licensing Authority will, where entitled to do so, seek to impose conditions that are clear, unambiguous, coherent and enforceable.

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**19.16. Problematic operating schedules**

19.17. Where no other clarification is provided, transposition of operating schedules which are unclear will be based on our interpretation. Similarly, operating schedules that are inconsistent (e.g. where permitted hours do not tally) will be transposed in a way that we believe best promotes the licensing objectives.

19.18. The Licensing Authority may, where appropriate, transpose imprecise terms in an operating schedule by drawing from, its pool of model conditions (see 19.23 below).



**19.19. Avoidance of conflicting conditions**

19.20. So far as is reasonably practicable, the Licensing Authority will ensure, where it is entitled to do so, that no conditions are imposed on relevant authorisations that conflict with any other conditions. For these purposes, the Licensing Authority will give precedence to conditions in accordance with the hierarchy shown above.

**19.21. Duplication with other statutory provisions**

19.22. The Licensing Authority expects holders of relevant authorisations, their premises and business activities to comply with all other relevant legislative requirements (e.g. Health and Safety at Work etc. Act 1974). The Licensing Authority will therefore, normally avoid the imposition of conditions that duplicate other regulatory requirements, unless -

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- (a) other legislation does not adequately or specifically address the issues concerned; or
- (b) other legislation does not cover the unique circumstances that arise in connection with licensable activities at specific premises; or
- (c) it is appropriate in the circumstances to take steps to promote the licensing objectives.

**19.23. Pool of model conditions**

19.24. In an effort to be helpful, the Licensing Authority will maintain a pool of model conditions from which applicants, other persons, Responsible Authorities and the Licensing Authority itself (where entitled to do so) may refer and draw. The pool of model conditions will be provided under separate cover and on the Council's website ([www.rushmoor.gov.uk](http://www.rushmoor.gov.uk)).

**NB:** The Licensing Authority expects that any conditions used from the pool are only used where necessary and appropriate to the particular circumstances of the instant premises concerned. The pool of model conditions should not be treated as a set of standard conditions or otherwise applied universally irrespective of circumstances.

**19.25. Use of model conditions by the Licensing Authority**

19.26. Where appropriate, the Licensing Authority may draw from its pool of model conditions and those contained in the Secretary of State's guidance.

**19.27. Enforcement of conditions and rights of appeal**

19.28. Failure to comply with any condition attached to a relevant authorisation is a criminal offence.

19.29. All parties will be informed of any statutory rights of appeal against the imposition of, or failure to impose conditions where provision has been made to do so.

## APPENDIX A

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### 20. CONSULTATION

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20.1. The following individuals, bodies and organisations have been consulted on this policy.

- To be confirmed -

## APPENDIX B

### 21. RECOMMENDED ACTIONS FOR PREMISES USERS & TEMPORARY EVENTS

#### 21.1. RECOMMENDED ACTIONS

- 21.2. It is strongly recommended that the matters detailed in the table below be considered and, where appropriate, implemented for all events involving temporary licensable activities run under authorisation of a temporary event notice.
- 21.3. It should be noted that the matters outlined in this section are not mandatory or exhaustive. It is entirely a matter for each premises user to ensure that the premises used under a TEN and/or the temporary licensable activities provided there are adequately managed / supervised.

No	RELEVANT CONSIDERATIONS / RECOMMENDATIONS	REASON
(1)	It is recommended that the premises user checks with the local Planning Authority that the premises to be used for temporary licensable activities has the necessary planning permission and authorised use that allows for all planned activities and the hours during which they will be provided.	Giving a TEN does not relieve the premises user from any requirement for planning permission. The premises owner and/or user may be liable for certain offences if the premises are used otherwise than in accordance with any planning permission or authorised use.
(2)	It is recommended that suitable and sufficient arrangements be made to count the number of people entering and leaving premises operating under a TEN, so that the net total of people recorded inside the premises does not at any time exceed the number authorised by the TEN.	If the premises user fails to restrict the numbers attendant to the(ir) premises operating under a TEN, they may be liable to prosecution for carrying on unauthorised licensable activities where the total number of individuals in the premises exceeds the amount specified on the TEN.
(3)	It is recommended that suitable and sufficient arrangements be made to ensure that temporary licensable activities conclude on time and in accordance with the TEN.	If the premises user fails to conclude the temporary licensable activities at the stated time, they may be liable to prosecution for carrying on unauthorised licensable activities.
(4)	It is recommended that anyone authorised to sell or supply alcohol at premises operating under a TEN, be trained to a level commensurate with their role and responsibilities in the lawful sale of alcohol.	There are a variety of offences under the Act associated with the sale and supply of alcohol. The premises user for a TEN may remain liable for certain offences if the event is not adequately managed / supervised.
(5)	It is recommended that anyone authorised to sell or supply alcohol at premises operating under a TEN be instructed to request and ensure sight of suitable photographic identification, for proof of age, of any person appearing to them to be under the age of 25 (twenty-five) and who is attempting to purchase alcohol.	It is an offence to sell or supply alcohol to an individual aged under 18. The premises user for a TEN may remain liable for certain offences if the event is not adequately managed / supervised.
(6)	Where the premises user does not intend or expect to be on the premises to which a TEN relates, it is strongly recommended that the premises user provides suitable and sufficient emergency contact details to both the Police and Licensing Authority on submitting the TEN.	The premises user for a TEN may remain liable for certain offences if the event is not adequately managed / supervised.

# APPENDIX C

## 22. RELEVANT CONSIDERATIONS

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### 22.1. INTRODUCTION

22.2. Where appropriate and depending on the nature and characteristics of the business concerned, the following matters might / should be considered in respect of applications for, and reviews of, relevant authorisations.

**NB:** This is not an exhaustive list of matters for consideration and each application must be tailored to its own circumstances and considered on its own individual merits.

RELEVANT CONSIDERATIONS						
No	RELEVANT CONSIDERATIONS		REASON(S)			
	Subject	Considerations	Prevention of crime and disorder	Ensuring public safety	Prevention of public nuisance	Protection of children from harm
(1)	Access of children to premises.	<ul style="list-style-type: none"> <li>Nature of the activities taking place at the premises</li> <li>Appropriate times for children to be on the premises</li> <li>Supervision of children</li> <li>Appropriate age limitations</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	Adult entertainment(s).	<ul style="list-style-type: none"> <li>The type(s) of event(s) or activity provided</li> <li>The time(s) of day when adult entertainment is to be provided</li> <li>The time(s) when adult entertainment may give rise to a more acute risk to children, performers and/or adults</li> <li>The possibility of children hearing or seeing unsuitable material</li> <li>The nature, type and content of any external advertising of adult entertainments (either at the premises or in its immediate vicinity) and whether this should be permitted</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3)	Age-restricted film(s).	<ul style="list-style-type: none"> <li>Ensuring age restrictions are complied with</li> <li>Advertising of age restrictions</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Licensing Act 2003 – Statement of Licensing Policy

	Alcohol management	<ul style="list-style-type: none"> <li>• Ensuring that sales of alcohol are not made to, or on behalf of individuals under 18 years of age</li> <li>• Ensuring that sales of alcohol are not made to, or on behalf of those who are drunk or intoxicated</li> <li>• Ensuring that sales of alcohol are not made to, or on behalf of those to whom the sale of alcohol may result in crime and disorder (inclusive of proxy sales)</li> <li>• Staff training</li> <li>• Best practice schemes e.g. Challenge 25</li> <li>• Acceptable proof of age</li> <li>• Appropriate signage</li> <li>• Till prompts</li> <li>• Refusals logs</li> <li>• Monitoring of staff challenges / refusals</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4)	Bottles, glasses and drinking vessels	<ul style="list-style-type: none"> <li>• Potential use of drinking vessels as weapons</li> <li>• Potential for tampering (e.g. date rape drugs)</li> <li>• Accidents or littering through being deposited or smashed on the floor of the premises or streets</li> <li>• The type and nature of the premises</li> <li>• The type and nature of the patrons of the premises</li> <li>• The type and nature of the activities carried on at the premises</li> <li>• The provision and number of any licensed door supervisors</li> <li>• The nature, style, appearance and volume of drinks offered / sold at the premises and whether or not they are supplied with table meals</li> <li>• Whether alcohol is to be sold for consumption on and/or off the premises</li> <li>• Whether alcohol is to be sold in such a location or in such circumstances that may exacerbate an accident (e.g. in a closely seated audience where they can cause a tripping hazard etc)</li> <li>• The provision, number and frequency of dedicated glass / vessel collections during any period of licensable activity</li> <li>• The use of polycarbonate vessels</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5)	CCTV	<ul style="list-style-type: none"> <li>• Quality of footage</li> <li>• The length of time footage will be kept</li> <li>• Ability of staff to record footage and provide to authorities expediently following an incident</li> <li>• Location of cameras (internal, external, likely areas for crime &amp; disorder, blind spots for staff)</li> <li>• Warning signs</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(6)	Detection and search system(s)	<ul style="list-style-type: none"> <li>• Prevention of the carriage and use of drugs, knives and other weapons to licensed premises</li> <li>• Knowledge of who is in the venue and their history</li> <li>• Schemes to notify you of potential issues e.g. Townlink Radio, Pubwatch, Shopwatch, ID Scanners</li> <li>• The rate, flow, nature and level of customer attendance to the premises</li> <li>• Staff training</li> <li>• Warning signs</li> <li>• Policies and procedures for the subsequent handling and confiscation of drugs / weapons and/or those carrying them.</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Licensing Act 2003 – Statement of Licensing Policy

(7)	Dispersal policy / plan(s)	<ul style="list-style-type: none"> <li>• The speed, efficiency and effectiveness of dispersal of customers / patrons leaving the premises (particularly late at night)</li> <li>• The nature, number and characteristics of those attending the premises</li> <li>• The activities provided at the premises</li> <li>• The hours within which those activities are permitted</li> <li>• The number of door supervisors, stewards or marshals available at the premises</li> <li>• The nature of the area in which the premises are situated</li> <li>• The ease of access to, and availability of, public transport (including licensed taxis or private hire vehicles) to take patrons away from the premises or its immediate vicinity at the times needed</li> <li>• Those who are vulnerable through drink, drugs, age, gender, mental and/or physical impairment and (dis)ability or other special need(s)</li> <li>• The likely peaks and troughs of people leaving</li> <li>• Measures to reduce associated noise, litter</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(8)	Door supervisors	<ul style="list-style-type: none"> <li>• The number of people permitted on the premises,</li> <li>• The type and nature of the activities provided on the premises</li> <li>• The nature of the premises, its clientele and the nature of the area in which they are located</li> <li>• The hours that activities take place at the premises</li> <li>• Appropriate clothing for identification / visibility</li> <li>• Logging details of door supervisors on duty and any incidents</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(9)	External Drinking areas	<ul style="list-style-type: none"> <li>• The type, nature and layout of the premises</li> <li>• The activities carried on at the premises in the external areas</li> <li>• The type and nature of the clientele of the premises</li> <li>• The type and nature of others that may use the area(s) concerned</li> <li>• The time and frequency of use of the area(s) concerned</li> <li>• The proximity of residents and other businesses and how they may be affected (e.g. noise and disturbance)</li> <li>• Methods of reducing time spent in external areas late at night</li> <li>• Provision of an area for customers to smoke</li> <li>• Signage</li> <li>• The potential for other nuisance problems (including waste, litter, pests, lighting etc)</li> <li>• The potential for external equipment, fixtures and fittings to be used as weapons</li> <li>• The potential to encourage loitering</li> <li>• The impact on the safety of the area (including potential for obstruction and distraction)</li> <li>• The safe and secure storage of equipment, fixtures and fittings</li> <li>• Ease of and potential impact of storing any equipment, fixtures and fittings</li> <li>• The layout, design, maintenance &amp; cleanliness of external facilities</li> <li>• Pest / vermin control arrangements</li> <li>• Supervision arrangements for the external facilities (including CCTV or door supervisors);</li> <li>• The nature and type of external facilities [to be] provided</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(10)	Lighting	<ul style="list-style-type: none"> <li>• Positioning to only illuminate the surface(s) intended and not unreasonably throw light onto, or otherwise cause nuisance to, neighbouring property</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Licensing Act 2003 – Statement of Licensing Policy

	<i>(including exterior and security lighting)</i>	<ul style="list-style-type: none"> <li>The nature and type of lighting provided (e.g. whether flashing or particularly bright)</li> <li>The frequency, duration and time of day that the lighting is needed</li> <li>The proximity of any lighting to local residents or businesses that may be affected by any lighting</li> <li>The benefits to the prevention of crime and disorder that bright lighting in some places may bring</li> <li>Baffles, enclosures, screening or shielding</li> <li>Timers, movement sensors, dimmer switches and/or alternative lighting</li> </ul>				
(11)	Noise and/or vibration  <i>(i.e. from licensed premises, licensable activities and any plant, machinery or equipment)</i>	<ul style="list-style-type: none"> <li>The nature and characteristics of any noise / vibration produced inclusive of volume, duration, frequency(s), wavelength, the total noise energy (<math>L_{Aeq}</math>), background noise (<math>L_{A90}</math>) and tonal content</li> <li>Directional qualities and transmission paths of any noise / vibration produced on the premises</li> <li>Any other environmental factors that may exacerbate noise / vibration problems on / from the premises</li> <li>The frequency, duration and time of day that activities causing noise and/or vibration occur</li> <li>The proximity of source of noise and/or vibration to local residents or businesses that may be affected</li> <li>The nature of the area in which the premises are situated</li> <li>The type of premises concerned</li> <li>The activities to be provided at the premises</li> <li>The needs of the local community</li> <li>Sound and/or vibration leakage</li> <li>Closure of doors and windows</li> <li>Sound levels from amplification equipment</li> <li>Sound limiting devices</li> <li>Soundproofing, dampening or other anti-vibration measures</li> <li>Irregular noise activities (e.g. disposal of refuse such as waste bottles into external receptacles)</li> <li>Type and location of plant, machinery and equipment</li> <li>Servicing and maintenance of plant, machinery and equipment</li> <li>Noise assessments</li> <li>The logging, response and management of noise complaints</li> <li>Staff training and information</li> <li>The employment of a competent noise control consultant</li> <li>Provision of information to local residents about planned activities and how to complain if necessary</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(12)	Outdoor & large scale events	<p>While the considerations outlined in this document may be relevant, special issues and considerations may arise in connection with the provision of large-scale, outdoor and/or specialised events. Where appropriate, consideration might / should be given to:-</p> <ul style="list-style-type: none"> <li>Proposals put forward through any safety advisory group (SAG)</li> <li>Relevant best practice / guidance for events of the appropriate nature (e.g. HSG 65)</li> </ul>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
(13)	Queuing policies and arrangements.	<ul style="list-style-type: none"> <li>The number of people likely to queue on or in the vicinity of the premises</li> <li>The location, direction and method of queuing and crowd control used</li> <li>The proximity of local residents and businesses that may be affected</li> <li>The provision of and degree to which any queue is marshalled by door supervisors / stewards</li> <li>The provision of physical aids (e.g. suitable barriers / guides)</li> <li>The briefing / training of staff (including any door supervisors) to a level commensurate with their role and</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Licensing Act 2003 – Statement of Licensing Policy

Page 98		<p>responsibilities in the effective monitoring and enforcement of any queuing policies / arrangements</p> <ul style="list-style-type: none"> <li>• The provision of suitable and sufficient signage advising of queuing arrangements and any associated admissions / refusal of entry and / or re-entry policies at the entrance(s) to the premises</li> <li>• Time at which last entry to the premises will be permitted</li> <li>• Re-entry arrangements for customers who leave the premises for smoking</li> </ul>				
(14)	Sanitary accommodation.	<ul style="list-style-type: none"> <li>• Location</li> <li>• Quantity</li> <li>• Type</li> <li>• Signage</li> <li>• Cleaning and maintenance</li> <li>• Measures to reduce likelihood of drug use</li> <li>• Regular checks for cleanliness, signs of drug use etc.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(15)	Waste / litter control.	<ul style="list-style-type: none"> <li>• Likely causes of waste (e.g. smoking, food / drink containers)</li> <li>• Cleaning of the area &amp; emptying of waste receptacles (during opening hours and on closure)</li> <li>• Litter and/or spillages likely to cause a hazard (e.g. slips or tripping, needles and sharps)</li> <li>• Type, location and quantity of receptacles for litter and waste</li> <li>• Notices to encourage responsible disposal of litter</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**LICENSING, AUDIT & GENERAL PURPOSES COMMITTEE**

**24 SEPTEMBER 2018**

**DIRECTORATE OF COMMUNITY AND ENVIRONMENT  
ENVIRONMENTAL HEALTH & HOUSING  
REPORT NO. EHH1825**

**FEEES AND CHARGES  
(ANIMAL WELFARE LICENSING AND SKIN PIERCING REGISTRATION)**

**1 INTRODUCTION**

- 1.1 This report seeks Committee approval for revised fees for animal welfare licensing and skin piercing registration provided by the Environmental Health Service.

**2 BACKGROUND**

- 2.1 The Local Authority (Functions & Responsibilities) (England) Regulations 2000 place responsibility for the determination of these fees and charges on the Licensing, Audit & General Purposes Committee.
- 2.2 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 come into force on 1st October 2018 and seek to consolidate licensing regimes into one piece of law. Transitional guidance is in the process of being released with guidance on the setting of fees recently issued. The fees proposed are in line with this guidance.
- 2.3 Members are also invited to consider the setting of a fee for skin piercing registration. These fees were last uplifted on 1st April 2018 and it is proposed that these be uplifted in line with inflation.

**3 ANIMAL WELFARE LICENSING**

- 3.1 The Government has published the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 under s13 of the Animal Welfare Act 2006. The effect of the regulations is to consolidate and replace some existing legislation, and put in place a new licensing regime to control the following “licensable activities”:
- selling animals as pets (pet shops)
  - boarding for cats or dogs (home, kennels, catteries, day care)
  - hiring out horses
  - breeding dogs
  - keeping or training animals for exhibition
- 3.2 The new regulations replace the licensing regimes under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Acts 1964 & 1970, Breeding of Dogs Act 1973 & Breeding and Sale of Dogs (Welfare) Act 1999 and the Performing Animals (Regulation) Act 1925.

3.3 Licences current under previous legislation on 1st October 2018 will continue to be valid until they expire. Licences will then be applied for under the new regime.

#### **4 ANIMAL WELFARE LICENSING - METHOD OF FEE CONSTRUCTION**

4.1 Traditionally the fees charged for animal welfare licences have included the costs of processing the application, the costs of monitoring compliance, and the costs of enforcing against unlicensed and licensed operators. Until recently, application fees have been payable in full at the time of making an application. However, the case of *Hemming v Westminster City Council* has clarified the costs that local authorities can include when setting licence fees. The courts also concluded that the licence fees should be made up of two parts, A and B.

4.2 Part A is to cover the direct costs associated with processing the application, to the point where a decision is made and a licence is issued. This includes handling applications and payments, and carrying out pre-licensing inspections. The Part A fee is payable in full on submission of the application, and is non-refundable.

4.3 Part B is to cover the costs associated with running the licensing function. This includes investigating complaints and enforcement. The Part B fee would only become payable if a licence is granted, and would need to be paid before the licence becomes operational.

4.4 In accordance with the guidance issued, the methodology used to calculate fees allocates estimated officer time throughout the year against each element of Part A and Part B. The hourly rate (of direct costs and indirect costs) has then been applied to give an overall cost. Members are invited to note that these estimates are based on our recent experience of similar licensing regimes although the differing requirements of the new regime may mean further adjustments to the fees are necessary at the time of the next fee review.

4.5 Appendix 1 provides the calculated cost of each licence (including Part A and Part B fees) and provides a comparison to the current fees. In each case, the fee has increased to recognise the additional requirements of the new legislation on the Council which include new training requirements for officers and the implementation of a new “star rating” system.

4.6 Certain licensable activities require vet inspections and the cost of this may be added to the licence fee where applicable.

## **5 SKIN PIERCING**

- 5.1 The fees in respect of skin piercing registration (acupuncture, tattooing, ear piercing and electrolysis) were last uplifted ready for 1st April 2019. It is proposed that these fees be uplifted by the appropriate rate of inflation using the RPIx figure approved by Cabinet for use with similar uplifts, currently 3.4%.
- 5.2 The case of *Hemming v Westminster City Council* does not need to be taken into account for these registration processes. The Council can only grant registration following application and therefore fees do not need to be split into Part A and Part B.
- 5.3 It is therefore proposed that the existing fee of £167 (per premises) and £94 (per person) be increased to £173 and £97 respectively, to take effect from 1st April 2019.

## **6 IMPLICATIONS**

### **Legal Implications**

- 6.1 The setting of appropriate fees is a necessary part of the Council's duty to implement the new animal welfare licensing regulations, and part of the annual review of our existing skin piercing registration regimes.

### **Financial and Resource Implications**

- 6.2 The regulations and associated guidance permit the Council to recover the costs of the provision of these regimes. The fees set take account of this. The new animal welfare licensing regime consolidates existing legislation and practice. This, together with skin piercing registration will be delivered within existing resources.

## **7 RECOMMENDATIONS**

- 7.1 Members are recommended to approve the revised fees as set out in this report, with the fees in respect of animal welfare licensing taking effect as of 1<sup>st</sup> October 2018, and the fees for skin piercing registration taking effect from 1<sup>st</sup> April 2019.

**QAMER YASIN**  
**HEAD OF ENVIRONMENTAL HEALTH AND HOUSING SERVICES**

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**Contact:** Colin Alborough, Food and Health & Safety Manager (01252 398169)

### Appendix 1 – Comparison of current with proposed licence fees (*RENEWAL* and *NEW*)

LICENCE RENEWAL FEES	A	B	PROPOSED Total Renewal Application Fee (A + B)	CURRENT Renewal Application Fee	% Change
	PROPOSED Renewal Application Fee	PROPOSED Enforcement Fee			
Home boarding of dogs or dog day care <sup>1</sup>	£101	£59	£160	£143	12%
Breeding dogs <sup>1</sup>	£125	£72	£197	£171	15%
Boarding for cats or dogs (in a cattery/kennel) <sup>1</sup>	£101	£71	£172	£143	20%
Hiring out horses <sup>2</sup>	£139	£79	£218	N/A <sup>3</sup>	N/A
Pet Shops <sup>1</sup>	£125	£72	£197	£171	15%
Keeping or training animals for exhibition <sup>1,4</sup>	£101	£59	£160	N/A <sup>5</sup>	N/A

NEW LICENCE FEES	A	B	PROPOSED Total New Application Fee (A + B)	CURRENT New Application Fee	% Change
	PROPOSED New Licence Application Fee	PROPOSED Enforcement Fee			
Home boarding of dogs or dog day care <sup>1</sup>	£212	£59	£271	£242	12%
Breeding dogs <sup>1</sup>	£240	£72	£312	£271	15%
Boarding for cats or dogs (in a cattery/kennel) <sup>1</sup>	£219	£71	£290	£242	20%
Hiring out horses <sup>2</sup>	£240	£79	£319	£285	12%
Pet Shops <sup>1</sup>	£240	£72	£312	£271	15%
Keeping or training animals for exhibition <sup>1,4</sup>	£212	£59	£271	N/A <sup>5</sup>	N/A

Each Additional Licensable Activity	£50
Application for re-rating	£75
Transfer /Variation	£50
Additional Copy of Licence	£30

<sup>1</sup> Plus additional vet fee where applicable

<sup>2</sup> Plus additional fee for a listed, specialist vet on each inspection

<sup>3</sup> No existing renewal fee

<sup>4</sup> Three year licence

<sup>5</sup> Previously enforced by HCC