

## APPENDIX A

### THE ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

#### DRAFT LICENSING POLICY STATEMENT 2016-2021

#### Introduction

Section 5 of the Licensing Act 2003 requires the Licensing Authority to publish a licensing policy statement every 5 years. The following is a revision of RBWM's policy for the period 2016-2021.

The policy relates to the following activities:

- a) The retail sale of alcohol
- b) The wholesale of alcohol to members of the public
- c) The supply of alcohol to members of registered clubs
- d) The provision of regulated entertainment. Regulated entertainment includes the performance of a play, film exhibitions, indoor sporting activities, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances and entertainment of similar description.
- e) On 1 October 2012 the Live Music Act 2012 came into force. Under the Act, live music will cease to be regulated entertainment in venues licensed for the sale of alcohol for consumption where:
  - a) The music is unamplified and takes place between 0800 and 2300 hours. When the music is amplified and it takes place in the presence of an audience of 200 persons or less and is provided between 0800 and 2300 hours.
  - b) For premises not licensed for the sale of alcohol, live music is not regulated entertainment when it is unamplified and takes place between 0800 and 2300 hours. Amplified music in premises that are not licensed will still require an appropriate authorisation. Any conditions relating to live music that are stated on a Premises licence will be suspended, unless re-attached following the review of the premises licence.
- f) The supply of hot food and drink between 2300 and 0500 hours.

#### Principles

The licensing objectives covered by this policy are:

- the Prevention of Crime and Disorder
- Public Safety
- the Prevention of Public Nuisance; and
- the Protection of Children from Harm

The policy takes into account:

- The Council's Community Strategy
- Central Government's Alcohol Harm Reduction Strategy.
- Central Government's "Safer Clubbing" Guide

The licensing authority wishes to encourage applications for restaurants and other predominantly seated venues which do not adversely impact upon the licensing objectives in contrast to those that predominantly offer vertical drinking. If applications are made, they must demonstrate how the licensing objectives are to be promoted.

The current staggered closing times of licenced premises that has developed since 2005 in the Royal Borough has helped to reduce the problems associated with large numbers of people leaving premises at the same time, particularly at taxi ranks and fast food outlets. However, for some residents, the later opening hours have brought increased levels of crime, disorder and nuisance. Residents have reported many issues, including noise, anti-social behaviour and litter, which are having an adverse impact on their quality of life.

Having considered the evidence of alcohol related crime, disorder and anti-social behaviour, the number of late night premises and the difficulties in preparing the Royal Borough for the next working day, the Licensing Authority has adopted a framework of closing times. Following consultation with Thames Valley Police, the licensing authority has included a commencement hour for the sale of alcohol. This framework will apply to new applications and variations for longer hours or additional licensing activities in the Royal Borough in order to control the further expansion of licensed premises operating late at night.

Premises Type	Commencement Hour	Terminal Hour
	No earlier than	No later than
Off licence	9:00am	11:00pm
Restaurant	10:00am	01:00am
Pub/Bars/Night Clubs	10:00am	02:00am
Takeaways	n/a	01:00am

The hours of existing licensed premises will remain unchanged unless there are good reasons, based on the licensing objectives, for restricting these hours, and then they can be changed by licensing Sub-Committee following a review of the premises licence.

There will be no presumption that applications within the proposed framework of hours will be granted. Each application will be considered on its own merit and if no representations are received the application be granted by the licensing authority, under delegated powers. Any applications for later hours, outside the framework, will also be considered on their individual merits.

The licensing authority will secure the integration of licensing with local crime prevention, planning, transport, tourism, race equality and cultural strategies, together with other plans for management of town centres and the night time economy, by consultation, dialogue and joint working with the departments and agencies concerned.

The Human Rights Act 1998 – in particular Article 8 and Article 1 of the first Protocol of the Convention.

The policy is made following consultation with:-

- The Chief Officer of Police
- The Fire Authority
- Persons representing holders of existing licences.

- Persons representing registered clubs.
- Persons representing businesses and residents in the Council's area

Every application considered by the Licensing Authority under the terms of this policy, will be considered on its own merits and regard is given to Central Government guidance under Section 182 of the Licensing Act 2003, the Licensing Act 2003 generally and any supporting regulations.

The Council maintains that licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act and any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and others granted relevant permissions, centring on the premises and their vicinity.

Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to the management of the evening and night time economy in town and city centres.

The Licensing Authority will only attach conditions where they have been offered by the applicant or following relevant representations.

Where relevant representations have been made, the Licensing Authority will only grant a licence or extend the hours of operation of an existing licence where this would not result in unreasonable disturbance to residents.

In considering the effect on residents, the Authority will take into account:

- The nature of the activities
- The character of the surrounding area
- Measures for limitation of noise emissions from the premises. These may include as appropriate; noise limitation devices, sound insulation, whether windows are to be opened, the insulation of acoustic lobbies and double glazing
- Measures to deal with queuing, where necessary
- Use of outdoor areas
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, use of dedicated Hackney Carriage / Private Hire firms, notices in the premises requesting customers to respect neighbours
- Winding down periods, particularly in public houses and nightclubs etc

The licensing authority will normally expect to see relevant protective measures included in the operating schedule. Applicants are encouraged to consider the measures set out in this policy as appropriate when formulating their operating schedules.

## Prevention of Crime and Disorder

Where relevant representations have been made in relation to Crime and Disorder the Licensing Authority may normally consider the following issues in relation to the prevention of crime and disorder:

- Measures to prevent bottles being carried from premises
- Use of drinks' promotions
- Measures to prevent binge drinking
- Participation in the Pub Watch Scheme
- Use of door supervisors
- Training staff in crime prevention measures
- Search procedures

- Use of close circuit television
- Lighting
- Where premises are new, designing out crime
- Quality of surveillance of premises

## Public Safety

Where relevant representations have been made, the Licensing Authority may consider the following issues in relation to public safety:

- The use of shatterproof glasses
- The promotion of sensible drinking
- Measures taken to prevent drug spiking
- Drugs policies
- Safe capacities

In appropriate cases, the following Conditions may be imposed on premises' licences to ensure the safety of those attending the premises:

- that a personal licence-holder shall be present at all times when the premises are open for the sale of alcohol
- suitably qualified first-aiders will be required

## Prevention of Public Nuisance

Where relevant representations are made the following issues may be considered by the Licensing Authority in relation to the prevention of public nuisance.

- The disposal of waste, particularly glass
- The use and maintenance of plant, including air extraction and ventilation systems
- Litter in the vicinity of the premises
- Noise from deliveries / collections to and from the premises
- Measures to control behaviour and queues
- Whether door supervisors are able to stay at the entrance to encourage quiet departure
- The provision of Hackney Carriage / Private Hire services at the premises
- Signs on doors and on tables encouraging consideration to the neighbours

## Children

Alcohol is often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

Needless to say, any such evidence of similar activities taking place on licensed premises within the Royal Borough will of necessity lead to a review of the premises licence.

The Windsor and Maidenhead Local Safeguarding Children Board (LSCB) works with other statutory authorities and the licensing trade to promote risk management in relation to child sexual exploitation. The LSCB can provide advice to assist licensees to identify risk and report concerns at different types of licensed premises so that children remain safe and businesses operate responsibly.

The Licensing Authority encourages licence holders and operators of licensed premises:

(1) To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and

(2) To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

The LSCB and the Royal Borough websites both contain more information about child sexual exploitation matters and can be found here:

<http://www.wamlscb.org/>

[http://www.rbwm.gov.uk/web/social\\_child\\_protect.htm](http://www.rbwm.gov.uk/web/social_child_protect.htm)

All applicants need to demonstrate how children and young people will be safeguarded if attending the licensed premises, or how it will be ensured that they do not gain access to the premises if not appropriate. Where relevant representations are made in relation to the protection of children from harm the Licensing Authority may impose conditions restricting the access of children or excluding them altogether from licensed premises. Such conditions will be imposed for the prevention of harm to children. Examples of premises which may be included are:

- Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking
  - With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises
  - Where entertainment of an adult or sexual nature is commonly provided
  - Where there is concern or evidence that young people are being exploited
- Options will include:
- Limitations on the hours when children may be present
  - Age limitations below 18
  - Limitations or exclusions when certain activities are taking place
  - Requirements for accompanying adults
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- The provision of a full range of non-alcoholic drinks

No conditions will be imposed to the effect that children must be admitted and this will be a decision which is left to the discretion of the Licensee or Club.

Where cinemas are concerned, the Council will impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Local Authority itself.

Conditions may be imposed on licences for premises where unaccompanied children will be present at places of public entertainment to the effect that adult staff must be present to control the access and egress of children and to ensure their safety.

Any application or questions arising which involve children will be referred to Windsor & Maidenhead Local Safeguarding Children Board (LSCB).

## Control of Consumers

The Council has adopted the relevant powers to designate parts of its area as places where alcohol may not be consumed publicly. This will be kept under review by the Council.

The Licensing Authority commends the Portman Group's Code of Practice on the naming, packaging and presentation of alcoholic drinks and schemes such as the BBPA's Guidelines on Trade Promotions which encourage responsible drinks promotions.

## Opening Hours

Consideration will always be given to the individual merits of the application in relation to licensing hours.

The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce friction at late night fast food outlets, taxi ranks and other sources of transport which may lead to disorder and disturbance.

In so far as shops, stores and supermarkets are concerned, these should be free to provide the sale of alcohol for consumption off the premises only when the retail outlet is open for shopping unless a responsible authority or other person can show cause why stricter conditions should be imposed.

As far as premises in residential areas are concerned, these may be subject to stricter controls with regard to opening hours to ensure that disturbance to local residents is minimised where relevant representations have been made.

### **Integration of Policies/Duplication**

Any decision in relation to licensing applications will be entirely separate from any decision in relation to planning. However, the Licensing Authority expects that any planning issues will have been resolved fully before licences are considered and granted.

So far as possible, duplication with other regulating agencies will be avoided and conditions will only be attached to Licences which are necessary for the promotion of the licensing objectives.

## **LICENSING AND PLANNING PROTOCOL**

### **Context**

The Licensing Act 2003 is the legislation that regulates the operation of licensed premises. The licensee is held as responsible for the proper operation of the premises. The licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

The Planning Act 2008 is clear that planning permission runs with the land; all planning decisions should be made in line with the national and local planning policies and should balance the environmental, social and economic impacts of a development.

There is a tension between the two legislative frameworks when it comes to the management of the night-time economy. The Royal Borough has in the past used planning conditions to limit the hours of operation of licensed premises and has also imposed similar restrictions on licences via licence conditions.

However, because the legal considerations and policy framework are different for the two processes there is, in theory and in practice, the possibility of a licensed premise having a planning condition stating one “closing time” and a licence condition stating another. This is unhelpful not only to the proprietor/operator of the premises, but also to local residents, and hinders the effective management of the night time economy locally.

The Council has a responsibility to take into account the expectations of local residents to be able to live in peace and enjoy their homes without unreasonable noise, disturbance or fear of crime.

Therefore it is an important duty of the Council to manage effectively the night time economy wherever licensed premises exist.

The most flexible and proactive tool to manage these premises is the licensing regime - as any issues arising through mismanagement of opening hours conditions can be dealt with through the current well-established licence review process.

Having a generic regime responsible for the hours of operation of these premises will mean that there is greater clarity for residents and licensees, a single point of responsibility for enforcement and simpler town centre management.

## Aims

This protocol sets out the mechanisms by which the Royal Borough:

- a) will deal, through its Licensing and Planning teams, with Licence and Planning applications made by new licensed premises; and
- b) will enforce existing “hours of use” restrictions

The operation of this protocol will be reviewed at 6-monthly intervals (every April and October) by the Lead Members for Planning and Property and for Environmental Services - in conjunction with the Head of Planning & Property Services and the Head of Public Protection.

## Planning Applications

- the Royal Borough’s Planning team will, within 5 working days of receipt, inform the Licensing team of all new applications made to it by premises that are likely to require a licence under the Licensing Act 2003
- the Licensing Team will then confer with the Planning team as to whether the premises is likely to require a licence under the 2003 Act
- if the premises are likely to require such a licence, then when granting planning permission the Royal Borough’s Planning team will not include any planning conditions that control the premise’s hours of operation

## Licensing Applications

- applicants are already required by statute to send a copy of their application to the Royal Borough’s Planning team
- the Planning team will ensure that all copies received are considered jointly by both Development Control Planning Officers and by the Planning Enforcement team
- after such consideration, Development Control Planning Officers will discuss the application with the relevant Ward Members in order that a judgement on the proposed licensed hours can be made from a planning point of view – to see if a relevant objection needs to be mounted or a concern raised with the Licensing team
- if it is felt that an objection or concern should be raised, Development Control Planning Officers will raise the matter with the Licensing team within 10 working days of receipt of the copy application

(This area is predicated on the fact that Licensing Officers have no legal ability to use judgement at all – they must grant a licence if no objections are received. If a valid objection is received –



based on one of the 4 licensing objectives - the application must then be referred to a Licensing Panel sub-committee for consideration).

With existing licensed premises, where there is a discrepancy in relation to “closing hours” between a licence condition and a planning condition then either:

- a. a licensing condition will specify an earlier closing time, or
- b. a planning condition will specify an earlier closing time

The Royal Borough’s Licensing and Planning teams will each maintain a register of premises that have conflicting conditions in relation to closing hours.

If a licence condition specifies an earlier closing time, then the Royal Borough’s Licensing team will enforce the condition in the same way that they have done since the Licensing Act 2003 was implemented.

This entails the use of an annual programmed set of proactive night-time and weekend operations, as well as responding to changes in the Royal Borough’s night-time economy and responding to complaints made by residents, the police and other concerned parties and to any intelligence received.

If a planning condition specifies an earlier closing time then the Royal Borough’s Planning Enforcement team will continue to enforce the condition in its traditional manner.

In addition, however, all existing Licensing Officers will be authorised under the relevant Planning legislation in order to assist in the enforcement of earlier planning condition closing times.

During the course of their normal enforcement duties outlined above, Licensing Officers will, when encountering premises that are allegedly breaching an earlier planning condition closing time:

- remind licensees of their planning conditions and encourage licensees to abide by them
- capture evidence and report the matter to the Planning Enforcement team
- provide relevant witness statements if subsequently requested by the Planning Enforcement team, and
- if required, act as witnesses in any subsequent legal proceedings should formal action be pursued

Both Licensing and Planning teams will also ensure that Lead Members are informed of any and all enforcement actions at their normal Lead Member briefings.

## Conditions

Standardised conditions will be avoided but selection may be made from the standard pool annexed to this report. Conditions will be tailored to the individual style and characteristics of the premises. So far as possible, conditions will reflect local crime reduction strategies.

## Enforcement

The Licensing Team has already established joint inspections of premises together with the Thames Valley Police which is considered to be highly effective. It is proposed to continue such inspections to ensure the prevention of crime and disorder and the safety of the public. Inspections will take place at the discretion of the Team Manager and partner agencies and resources will be concentrated on areas of need. The council has an enforcement policy which is available on the council’s website. Enforcement action will only be taken in accordance with that policy.



## Live Music, Dancing and Theatre

The Licensing Authority recognises that as part of implementing its Local Cultural Strategy, proper account should be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.

### Delegations of Functions

The delegations of functions in relation to Licensing matters are as follows:-

<u>Matter to be dealt with</u>	<u>Licensing Panel</u>	<u>Sub Committee</u>	<u>Officers</u>
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises Supervisor		If Police objection	All other cases
Request to be removed as designated premises Supervisor			All cases
Application for transfer of premises licence		If Police objection	All other cases
Applications for Interim Authorities		If Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	

<u>Matter to be dealt with</u>	<u>Licensing Panel</u>	<u>Sub Committee</u>	<u>Officers</u>
Applications for minor variations			All cases
Delegation of authority in relation to powers of entry			Community Protection and Enforcement Lead

## Promotion of Racial Equality

The Licensing Authority recognises its duty to promote equality under the terms of the Race Relations Amendment Act 2003, the Disability Discrimination Acts 1995 and 2005, the Equality Act 2006 and other relevant legislation as amended by the Equality Act 2010.

## Extra Conditions

All premises licensees will be encouraged to subscribe to the Council's award winning Community Radio system. For some premises it will be considered that subscription to the scheme should be a condition of the Licence to assist with the reduction of crime and disorder at the premises.

Where appropriate, it will be a condition that a representative of the premises' licensee shall attend the local Pubwatch or any similar scheme which may replace it.

In connection with the film exhibition, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of a certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. For the film passed by the Council, conditions will require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

## Capacity

Fire Safety Certificates should impose number restrictions for individual premises. Following relevant representations the Licensing Authority may impose conditions in relation to the maximum number of persons to attend premises where:-

- It considers it to be necessary for the purpose of the prevention of crime and disorder or the promotion of public safety.
- If the fire safety certificate was issued prior to any licensable activity taking place at the premises or if activities have changed since the certificate was issued. In those circumstances, the Council may impose a maximum number of persons to be in the premises at any one time to ensure the safety of those persons at the premises and to ensure a safe means of escape from fire. The Council will have regard to advice from the Fire Authority in this respect.

## Noise

Where relevant representations are made the Licensing Authority will impose conditions in relation to licensed premises to prevent unnecessary noise and disturbance to local residents where relevant representations are made. This may include restrictions on times when music or other licensable activities may take place and may impose technical restrictions on levels of sound at premises. Conditions may also be imposed requiring licensees to display signs at all exits from premises reminding customers to leave premises quietly and to respect the rights of nearby residents.

## Drugs

The Licensing Authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, it is also recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Where relevant representations are made by the Police the conditions to be imposed in such cases are set out in the Schedule although further conditions may be imposed from time to time. These conditions take into account the "Safer Clubbing guidance" issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs and Alcohol Action Team and the Police.

In addition to meeting the requirements of the licensing objectives, licensees have a social responsibility not to sell drug paraphernalia and other products that promote drug use.

Officers of the Licensing Team will engage in the following activities:-

- Provide clear information on the Council's policy on safer clubbing in its local statement of policy.
- Provide clear information on how to apply for a Premises Licence or Club Premises Certificate.
- Provide induction training to Councillors serving on Licensing Panels.
- Advise venue owners on how to establish and maintain a safe environment.
- Advise venue owners, in partnership with the Thames Valley Police, on developing a venue drugs policy.
- Ensure that sufficient medical staff is always present and are trained to a high standard.
- Liaise with Police and other officers to ensure good communication about potentially dangerous venues.
- Encourage venues to use outreach services.
- Encourage venues to provide safe transport home.
- Monitor the operation of clubs at times of peak occupancy.
- Ensure that door supervisors are properly trained and registered with the Security Industry Authority.
- Offer to assist with detecting drugs with the use of sniffer dogs and the "Itemiser" drugs detection equipment.

## Door Supervisors

Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed with the Security Industry Authority. Where relevant representations are made the Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

## Transport

The Council's Local Transport Plan will take into account the need to disperse people quickly and safely from Town Centres to avoid concentrations which may cause disorder and disturbance. This will also be taken into account when surveying the local Hackney Carriage trade and specific consultation with the Police will be included on that point.

## Temporary Events

Section 100 of the Act states that the organiser of a Temporary Event must give the Authority notice of the proposed event. Section 104 of the Act states that a copy of the Notice must also be provided to the Police and Environmental Protection. No notification need be given to other authorities such as the Fire Authority or Planning Section by the applicant but see below.

Section 100(7) states that the organiser must give the Authority a minimum of 10 clear working days notice. This does NOT include the application date, event date, weekends and bank holidays. However, in a significant number of cases this time period would not allow enough time for the organiser to liaise with the Police and other relevant bodies to ensure that the event passes off safely with minimum disturbance to local residents.

The Authority strongly recommends that it, Thames Valley Police and Environmental Protection receive all Temporary Event applications at least 28 days before the planned event. This will ensure that full discussion can occur between the organiser and any other interested parties in order that the event can take place with the minimum of risk of crime and disorder.

Section 107 states that a personal licence holder may hold up to 50 Temporary Events each year and a person who is not a personal licence holder may hold up to 5 such events. Each Temporary Event may last for up to 168 hours and individual premises may hold up to 12 such events per year so long as the total number of days used for these events does not exceed 21 per calendar year.

## Late Temporary Events

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. If there is an objection from either the Police or Environmental Protection, the event will not go ahead and a counter notice will be issued.

The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices.

## PANEL HEARINGS

### Licensing Sub-Committee Procedure

Licensing Panel Sub-Committee hearings will be held to deal with any application where relevant representations are made. These meetings will be held at a time which is most convenient for local residents. In most cases this will mean a meeting commencing at 18:30. If no residents are involved with applications and for example, only responsible authorities have made representations, then meetings may be held to suit the parties concerned. This will normally mean commencing at 10:00. It is expected that any documentary or other information to be produced by the parties will be circulated in advance of the hearing with enough time being given to give full consideration of any issues raised. Chairman may vary the order as he considers appropriate.

The Chairman will welcome all parties to the meeting, introduce the Sub-Committee Members and officers present, and outline the procedure as below:-

- The Licensing Officer to outline the application and the decision to be taken
- Members to ask questions of the Licensing Officer
- The Applicants to put their case to the Sub-Committee and clarify any information arising from the Licensing Officer's outline
- Objectors to address the Sub-Committee and put their case
- Members to ask questions of the objectors
- Applicant to ask questions of the objectors
- Members to ask questions of the Applicant
- Licence Holder to ask questions of the Applicant
- Applicant to briefly summarise their position
- Objectors briefly summarise their position
- Licensing Officer to provide a summary
- Chair to ask all parties if they have said all that they wish to
- Sub-Committee to retire for deliberations

## **ANNEXE A – Pool of conditions**

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, the following options should be considered as measures which, if necessary, would promote the licensing objectives.

### **Retail Radio**

The Council's retail radio connects premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

The radios provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Radios can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that such systems should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

A condition requiring radio links to the police will include the following elements:

- A requirement that radio equipment is kept in working order at all times;
- A requirement that the radio link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- A requirement that any police instructions/directions are complied with whenever given; and
- A requirement that all instances of crime or disorder are reported via the radio by the designated premises supervisor or a responsible member of staff.

## Door Supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- Keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- Maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

## Bottle Bans

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

A condition requiring that no sales may be made of beverages in glass bottles for consumption on the premises may include the following elements:

- No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (**note:** this needs to be carefully worded where off-sales also takes place).

In appropriate circumstances the condition could include exceptions, for example, as follows:

- But bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

## Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in toughened form can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

## CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

CCTV should be installed and working to the satisfaction of Thames Valley Police.

CCTV images must be kept for 31 days and made available upon the request of Thames Valley Police employees and authorised persons, as defined by Sections 13 & 69 of the Licensing Act 2003.

The DPS or nominated person should be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees or authorised persons, as defined by Sections 13 & 69 of the Licensing Act 2003.

The nominated person is responsible for supplying the necessary media (discs, data stick).

### **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

### **Restrictions on drinking areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

### **Capacity limits**

Although most commonly made a condition of a licence on public safety grounds, consideration will be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration will also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

### **Proof of Age Cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. A condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag unattended because of concerns about terrorism. The notice should display the name of a contact for customers if they wished to report concerns.





## Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

## Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” (HVVDs) are premises with exceptionally high capacities, used primarily or exclusively for the sale of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions will be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- A prescribed capacity;
- An appropriate ratio of tables and chairs to customers based on the capacity; and
- The presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

## Disabled people

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and disabled people on the premises are made aware of those arrangements

## Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- All exit doors are easily openable without the use of a key, card, code or similar means;
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- All fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut; and
- The edges of the treads of steps and stairways are maintained so as to be conspicuous

## Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Log-book

## Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators
- Pyrotechnics, including fireworks;
- Real flame;
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS (G)95] and BS EN 60825: Safety of laser products);
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

## CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

### Access for children to licensed premises – in general

- For any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity of entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, the purposes of obtaining or varying a premises licence or club premises certificate should:
  - Explain their reasons; and
  - Outline in detail the steps that they intend to take to protect children from harm on such premises.
- In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

## Age restrictions – specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Council following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary.

The Council will consider:

- The hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00 pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- Types of event or activity in respect of which no age restrictions may be needed, for example;
  - Family entertainment; or
  - Non-alcohol events for young age groups, such as under 18s dances
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - During “Happy Hours” or on drinks promotion nights;
  - During activities outlined in the first bullet point in the first paragraph above.

## Age restrictions - cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Section 20, requiring the admission of children to films to be restricted in accordance with recommendation given either by a body designated under Section 4, the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- A condition that where the Council itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- A condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U - Universal. Suitable for audiences aged four years and over
  - PG- Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15- Passed only for viewing by persons aged 15 years and over
  - 18- Passed only for viewing by persons aged 18 years and over
- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited onscreen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a

reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;

- A condition that when the licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms.

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

“Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

## Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

## Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- An attendant to be stationed in the area(a) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.
- The Council, having regard to any representations made by responsible authorities on the issue, will also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## Children in performances

The Council may consider the following matters:

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **THE PORTMAN GROUP CODE OF PRACTICE ON THE NAMING, PACKAGING AND PROMOTION OF ALCOHOLIC DRINKS**

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletin.

## Proof of Age cards

Where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.