

NOTICE  
OF  
MEETING



## LICENSING PANEL

will meet on

**WEDNESDAY, 18TH NOVEMBER, 2015**

**At 6.00 pm**

in the

**COUNCIL CHAMBER - TOWN HALL,**

TO: MEMBERS OF THE LICENSING PANEL

COUNCILLORS ASGHAR MAJEED (CHAIRMAN), CARWYN COX (VICE-CHAIRMAN), MALCOLM ALEXANDER, HASHIM BHATTI, PHILLIP BICKNELL, JOHN COLLINS, JESSE GREY, DAVID HILTON, CHARLES HOLLINGSWORTH, MAUREEN HUNT, ANDREW JENNER, SAYONARA LUXTON, WESLEY RICHARDS, DEREK SHARP AND JOHN BOWDEN

SUBSTITUTE MEMBERS

COUNCILLORS CHRISTINE BATESON, JOHN LENTON, GEORGE BATHURST, DR LILLY EVANS, DAVID BURBAGE, MARION MILLS, GARY MUIR, SAMANTHA RAYNER, NATASHA AIREY, HARI SHARMA, GEOFF HILL, SHAMSUL SHELMIM, JOHN STORY, DEREK WILSON AND LYNDA YONG

Karen Shepherd - Democratic Services Manager - Issued: Date Not Specified

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk) or contact the Panel Administrator

**Fire Alarm** - In the event of the fire alarm sounding or other emergency, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Congregate in the Town Hall Car Park, Park Street, Maidenhead (immediately adjacent to the Town Hall) and do not re-enter the building until told to do so by a member of staff.

**Recording of Meetings** – The Council allows the filming, recording and photography of public Council meetings. This may be undertaken by the Council itself, or any person attending the meeting. By entering the meeting room you are acknowledging that you may be audio or video recorded and that this recording will be available for public viewing on the RBWM website. If you have any questions regarding the council's policy, please speak to the Democratic Services or Legal representative at the meeting.

## AGENDA

### PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u>  To receive any apologies for absence.	
2.	<u>DECLARATIONS OF INTEREST</u>  To receive any declarations of interest.	5 - 6
3.	<u>MINUTES</u>  To confirm the Part I Minutes of the last meeting.	7 - 10
4.	<u>LICENSING POLICY STATEMENT</u>  To receive a report from Steve Johnson, Enforcement Principal, regarding the Licensing Policy Statement.	11 - 44
5.	<u>DATES OF FUTURE MEETINGS</u>  The next Licensing Panel is on Tuesday 12 January 2016.	



This page is intentionally left blank

## MEMBERS' GUIDANCE NOTE

### DECLARING INTERESTS IN MEETINGS

#### **DISCLOSABLE PECUNIARY INTERESTS (DPIs)**

DPIs include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any license to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where
  - a) that body has a piece of business or land in the area of the relevant authority, and
  - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

#### **PREJUDICIAL INTERESTS**

This is an interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs your ability to judge the public interest. That is, your decision making is influenced by your interest that you are not able to impartially consider only relevant issues.

#### **DECLARING INTERESTS**

If you have not disclosed your interest in the register, you **must make** the declaration of interest at the beginning of the meeting, or as soon as you are aware that you have a DPI or Prejudicial Interest. If you have already disclosed the interest in your Register of Interests you are still required to disclose this in the meeting if it relates to the matter being discussed. A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in discussion or vote at a meeting.** The term 'discussion' has been taken to mean a discussion by the members of the committee or other body determining the issue. You should notify Democratic Services before the meeting of your intention to speak. In order to avoid any accusations of taking part in the discussion or vote, you must move to the public area, having made your representations.

If you have any queries then you should obtain advice from the Legal or Democratic Services Officer before participating in the meeting.

If the interest declared has not been entered on to your Register of Interests, you must notify the Monitoring Officer in writing within the next 28 days following the meeting.

This page is intentionally left blank

## LICENSING PANEL

13 October 2015

PRESENT: Councillors Asghar Majeed (Chairman), Carwyn Cox (Vice Chairman), Malcolm Alexander, John Bowden, John Collins, David Hilton, Charles Hollingsworth, Sayonara Luxton, Wesley Richards, Derek Sharp and Derek Wilson (substituting for Councillor Andrew Jenner).

Officers: Alan Barwise, Will Cottrell, Steve Johnson and Shilpa Manek

### PART I

14/15 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Hashim Bhatti, Jesse Grey, Maureen Hunt and Andrew Jenner.

15/15 DECLARATIONS OF INTEREST

None.

16/15 MINUTES

**RESOLVED UNANIMOUSLY: That the minutes of the meeting of the Panel held on 7 September 2015 be approved.**

17/15 GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

Steve Johnson, Enforcement Principal, explained that a draft paper was agreed at the July 2015 Panel and it was suggested that trade was consulted regarding the suggestions. Trade was consulted and no amendments had been made to the suggested wording that was agreed at the July Panel.

The Panel **UNANIMOUSLY AGREED** the officer's recommendation.

18/15 REVIEW OF ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD'S PRIVATE HIRE AND HACKNEY CARRIAGE OPERATOR, VEHICLE AND DRIVER POLICIES AND CONDITIONS.

Steve Johnson, Enforcement Principal, went through the paragraphs 2.3 to 2.9 of the policy as follows:

Paragraph 2.3 – Medical for Drivers

Points highlighted by members included:

- Whether it was legal to ask for a full medical from drivers every year.

- Reliant on drivers to provide information to officers.

Steve Johnson clarified that the drivers GP would officially send a certificate for the driver to the council.

Councillor Cox questioned if this could be done and was any other boroughs already doing this. Councillor Cox suggested that it would be good to find out which other councils were following this example and if there had been any challenges. He highlighted that we would need to be careful to implement the policy.

Councillor Alexander pointed out that the policy concentrated on health of the driver but what if a driver was driving 24/7. Alan Barwise, , Licensing Manager, reassured Members that this was being monitored.

The Chairman requested that the issues raised be checked before the consultation be sent out.

#### Paragraph 2.4 – Internal Identification Plates

Councillor Luxton suggested a photograph of the driver would be better as it would be easier to remember. Councillor Sharp suggested an easy to remember number which would be more memorable and easy to quote if wanting to identify the driver.

Steve Johnson explained that these ideas could be considered. He explained that the additional internal plates had been costed at £1.00 per plate.

Councillor Wilson agreed with Councillor Sharp that a bold, easily visible number would be recognised and easily remembered.

The Panel unanimously agreed that the internal identification plates would be a good idea.

#### Paragraph 2.5 – Temporary Vehicle License Fees

The Panel unanimously agreed that the fee be increased.

#### Paragraph 2.6 – Road Knowledge Testing Fee

The Panel unanimously agreed that the fee be increased.

#### Paragraph 2.7 – Annual Driver Checks

This was discussed at the September 2015 Panel, the conditions requested by Members were now added.

The Panel unanimously agreed the Officers proposals.

#### Paragraph 2.8 – Convictions



Councillor Cox suggested that the definition of “convictions” be very clearly stated. The Panel unanimously agreed the Officers proposals.

Paragraph 2.9 – Horse Drawn Hackney Carriages

The Panel unanimously agreed that an additional section, relating to horse drawn vehicles, be added to RBWM’s Policies and Conditions.

The Panel unanimously agreed that the policies could go out to consultation and would come back to the Licensing Panel in January 2016.

19/15 DATES OF FUTURE MEETINGS

Members noted the next meeting of the Licensing Panel would be 6 January 2016,

20/15 MEETING

The meeting, which began at 6.00pm, ended at 7.15pm.

Chairman.....Date.....

This page is intentionally left blank

Report for: ACTION
Item Number: 4



<b>Contains Confidential or Exempt Information</b>	<b>NO PART 1</b>
<b>Title</b>	Statement of Licensing Policy
<b>Responsible Officer(s)</b>	Craig Miller - Community Protection and Enforcement Lead
<b>Contact officer, job title and phone number</b>	Steve Johnson – Enforcement Principal 01628 683555
<b>Member reporting</b>	Cllr Asghar Majeed
<b>For Consideration By</b>	Licensing Panel
<b>Date to be Considered</b>	18 <sup>th</sup> November 2015
<b>Implementation Date if Not Called In</b>	5 <sup>th</sup> January 2016
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Licensing policy

<p><b>Report Summary</b></p> <ol style="list-style-type: none"> <li>1. The council is required to update its Licensing Policy to come into effect on 5<sup>th</sup> January 2016.</li> <li>2. At previous Licensing Panels Members approved the process and timetable to ensure this happens and also approved a draft policy for consultation.</li> <li>3. Consultation took place and Members also asked for further legal advice to be sought about the policy as a whole.</li> <li>4. The policy has now been redrafted in line with Members wishes and Counsel's advice and Members are now asked to approve the policy for consideration by Full Council.</li> </ol>
--

<b>If recommendations are adopted, how will residents benefit?</b>	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Residents can be assured of having a policy in place which will assist with controlling levels of nuisance and anti-social behaviour, particularly in town centres and which will be part of a holistic approach to the	5 <sup>th</sup> January 2016

## **1. Details of Recommendations**

### **RECOMMENDATION:**

**That Members endorse the draft policy attached to this report for forwarding to Full Council for final approval.**

## **2. Reason for Recommendation and Options Considered**

- 2.1. At previous Licensing Panels, Members authorised the process and timetable for producing a new Licensing Policy for the borough, including the undertaking of a consultation process (as required by Section 5(3) of the Licensing Act 2003) on a first draft of the new policy.
- 2.2. Following the consultation Members, at the July 2015 Panel, authorised an updated version of the policy, but asked for advice to be obtained on the proposed policy as a whole from a senior barrister working in the area of licensing.
- 2.3. Attached as Appendix A is a copy of the proposed policy, which now includes changes made as a result of the advice obtained from a senior barrister.
- 2.4. The changes advised by Counsel were for the most part minor technical matters reflecting recent changes in legislation - but Members should be aware of the following changes now incorporated into the redrafted policy.
- 2.5. Counsel advised that the Pool of Conditions, the Licensing and Planning Protocol and the Delegation of Functions should be included as Annexes to the policy, rather than within the body of the policy itself, and this has now been carried out.
- 2.6. Counsel also advised that the procedural note setting out Licensing Sub-Committee Procedures should be treated as a separate stand-alone document and removed from the policy document altogether. This has been done.
- 2.7. Members were keen for Framework Hours to be a cornerstone of the new policy. This remains – indeed, current statistics for violent crime in Windsor between 00:00 and 04:00 indicate that the concept of Framework Hours for pubs and clubs, in particular, would very much be vindicated.
- 2.8. Counsel has, however, suggested that the 01:00 terminal hour within the Framework Hours provisions for venues that supply hot food and drink between 23:00 and 05:00 hours (“late night refreshment premises”) would be considered too restrictive and contrary to the spirit of the

Licensing Act 2003. Consequently, an extra hour has been added, with the recommended terminal hour for late night refreshment premises within the Framework Hours provisions now being 02:00.

- 2.9. Members will be aware, of course, (and the draft policy makes this clear) that the hours outlined within the Framework Hours provisions are not an entitlement and that an applicant will still need to demonstrate that, for the terminal hour of 02:00 to apply, it can operate so as to promote the licensing objectives and that the application and proposed operation is reasonably acceptable in the particular location.

<b>Options</b>	<b>Comments</b>
This is a statutory requirement and the council is required to comply	At this stage Members are being asked to approve the proposed policy to be forwarded to Full Council.

### 3. Key Implications

What does success look like, how is it measured, what are the stretch targets

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
% change in annual anti-social behaviour (ASB) incidents areas where alcohol related ASB is the issue	>0 %	0% to -2%	-2% to -10%	>- 10%	5 <sup>th</sup> January 2017
% change in annual complaints regarding other ASB issues related to licensed premises	>0 %	0% to -2%	-2% to -10%	>- 10%	5 <sup>th</sup> January 2017
% change in annual complaints regarding noise nuisance related to licensed premises	>0 %	0% to -2%	-2% to -10%	>- 10%	5 <sup>th</sup> January 2017

### 4. Financial Details

None

## 5. Legal Implications

The requirement to have a Licensing Policy statement is contained in Section 5 of the Licensing Act 2003. The new policy must be in place on 5<sup>th</sup> January 2016 and will then continue in effect for 5 years.

## 6. Value for Money

N/A

## 7. Sustainability Impact Appraisal

There are no significant sustainable development impacts resulting from this.

## 8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Non-compliance with a statutory requirement	Licensing Policy Statement is not put in place	Policy Statement is reviewed and published every 5 years	Policy Statement is available on the borough's website

## 9. Links to Strategic Objectives

This links to work for safer and stronger communities. The council's statement of Licensing Policy is a key aspect of the control of nuisance and anti-social behaviour and is part of a holistic approach to the management of the night time economy.

### Our Strategic Objectives are:

#### Residents First

- Support Children and Young People
- Encourage Healthy People and Lifestyles
- Improve the Environment, Economy and Transport
- Work for safer and stronger communities

#### Value for Money

- Deliver Economic Services
- Improve the use of technology
- Increase non-Council Tax Revenue
- Invest in the future

#### Delivering Together

- Enhanced Customer Services
- Deliver Effective Services
- Strengthen Partnerships

#### Equipping Ourselves for the Future

- Equipping Our Workforce
- Developing Our systems and Structures
- Changing Our Culture

## 10. Equalities, Human Rights and Community Cohesion

A full EQIA is not anticipated at this stage.

**11. Staffing/Workforce and Accommodation implications:**

None

**12. Property and Assets**

None

**13. Any other implications:**

None

**14. Consultation**

The following have been consulted:

- The chief officer of police for the area
- The Royal Berkshire Fire and Rescue Service
- The Director of Public Health
- Persons/bodies representative of local licence holders (e.g. Licensed Victuallers Associations and Pub watches)
- Persons/bodies representative of local club premises certificate holders
- Persons/bodies representative of businesses and residents in the area
- All Members of the Royal Borough
- All Parish Councils
- Local Chambers of Commerce

In addition, the information has been available on the Council's website and in newsletters to residents and other Council publications

**15. Timetable for Implementation**

July 2014	Panel considers proposals for commencing process
October 2014	Panel considers first draft of new policy and authorises commencement of consultation
November 2014	Consultation until March 2015
April 2015	Panel considers feedback on consultation
July 2015	Panel considers final draft of policy and makes recommendation, subject to legal opinion
November 2015	Panel considers final draft of policy and makes recommendation, following legal opinion
December 2015	Full Council considers recommendation from Licensing Panel
5 <sup>th</sup> January 2016	Policy comes into effect

**16. Appendices**

Appendix A – Draft Statement of Licensing Policy

**17. Background Information**

Section 5 Licensing Act 2003

RBWM's current Statement of Licensing Policy

## 18. Consultation (Mandatory)

<b>Name of Consultee</b>	<b>Post held and Department</b>	<b>Date sent</b>	<b>Date received</b>	<b>See comments in paragraph:</b>
<b>Internal</b>				
Cllr Burbage	Leader of the Council	10/11/2015	10/11/2015	
Cllr Cox	Lead Member	05/11/2015	05/11/2015	
Cllr Majeed	Licensing Panel Chairman	05/11/2015	05/11/2015	
Simon Fletcher	Strategic Director of Operations	05/11/2015		
Will Cottrell	Shared Legal Services	10/11/2015		

### Report History:

<b>Decision type:</b>	<b>Urgency item?</b>
Non-key decision	No

<b>Full name of report author</b>	<b>Job title</b>	<b>Full contact no:</b>
Steve Johnson	Enforcement Principal	01628 683555



## APPENDIX A

### THE ROYAL BOROUGH OF WINDSOR & MAIDENHEAD

#### DRAFT LICENSING POLICY STATEMENT 2016-2021

#### **1. Introduction**

1.1 Section 5 of the Licensing Act 2003 requires the Licensing Authority to publish a licensing policy statement every 5 years. This is the Statement of Licensing Policy for the Royal Borough of Windsor & Maidenhead 2016 – 2021.

1.2 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
- Windsor and Maidenhead Local Safeguarding Children Board (LSCB)

Additional consultation has also been carried out with:

- The Planning Authority

1.3 This Statement of Licensing Policy will be formally reviewed when required by legislation, but will be kept under constant review during the period that it applies.

1.4 This Statement of Licensing Policy will not be used to attach conditions that duplicate other regulatory regimes, unless they relate to specific issues that cannot be addressed elsewhere.

1.5 The Licensing Authority will not use this Policy to impose standard conditions on licences without regard to the merits of the individual case but it may have reference to model conditions for guidance when imposing any conditions.

## 2. Licensing Objectives and other key aims and purposes

### 2.1 Licensable Activities

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.
- e) The supply of hot food and drink between 2300 and 0500 hours, known as late night refreshment.

### 2.2 Entertainment No Longer Licensable

The Legislative Reform (Entertainment Licensing) Order 2014 came into force on 6 April 2015 with the effect that the following forms of entertainment are no longer licensable:

- Performances of plays between 08.00 and 23.00, provided that the audience does not exceed 500.
- Performances of dance between 08.00 and 23.00, provided that the audience does not exceed 500
- ‘Not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 provided that the audience does not exceed 500 and the organiser:
  - (a) gets consent to the screening from a person who is responsible for the premises; and
  - (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events between 08.00 and 23.00, provided that those present do not exceed 1000.
- Any contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00, provided that the audience does not exceed 1000.
- Performances of unamplified live music between 08.00 and 23.00, on any premises.
- Performances of amplified live music between 0800 and 2300:
  - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
  - In a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that the audience does not exceed 500, and the organiser gets consent for the performance from a person who is responsible for the premises
  - At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that the audience does not exceed 500, and the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital
- Playing of Recorded Music between 0800 and 2300:
  - On premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
  - In a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that the audience does not exceed 500, and the organiser gets consent for the performance from a person who is responsible for the premises

- At the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that the audience does not exceed 500, and the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital
- Any entertainment taking place on the premises of the local authority between 08.00 and 23.00, with no limit on audience size, where the entertainment is provided by or on behalf of the local authority.
- Any entertainment taking place on the hospital premises of the health care provider between 08.00 and 23.00, with no limit on audience size, where the entertainment is provided by or on behalf of the health care provider.
- Any entertainment taking place on the premises of the school between 08.00 and 23.00, with no limit on audience size, where the entertainment is provided by or on behalf of the school proprietor; and
- Any entertainment (excluding films and boxing or wrestling entertainment) taking place at a travelling circus between 08.00 and 23.00, with no limit on audience size, provided that it takes place within a moveable structure that accommodates the audience, and that the travelling circus has not been located on the same site for more than 28 consecutive days.

2.3 The licensing objectives covered by this policy are:

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

2.4 The policy takes into account:

- The Council's Community Strategy
- Central Government's Alcohol Harm Reduction Strategy
- Central Government's "Safer Clubbing" Guide
- Section 17 of the Crime and Disorder Act 1998

2.5 The policy further takes into account paragraph 1.5 of the Section 182 Guidance which states that the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

- Encourage greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

### 3. The Royal Borough

- 3.1 The Royal Borough of Windsor & Maidenhead is a unitary council in the Thames Valley area, in the South East of England. It is an area of 198 square kilometres and is home to Windsor Castle, Eton College, Legoland and Ascot Racecourse. The Borough's population is just over 147,000.
- 3.2 There are currently over 680 licensed premises in the Borough. These consist of public houses, night clubs, members clubs, restaurants, takeaways, off licences, village halls, a theatre, a cinema and 2 art centres.
- 3.3 Windsor is one of the top 4 night time economy centres within the Thames Valley Police area, which covers the counties of Berkshire, Buckinghamshire and Oxfordshire. This brings with it a number of challenges from a licensing perspective.

### 4. Principles

- 4.1 Each application on its own merits

Each and every application will be considered on its own merits and on a case by case basis. Determinations will be made in accordance with the Royal Borough's Statement of Licensing Policy and with the Section 182 Guidance issued by the Secretary of State.

- 4.2 Cumulative impact

The Licensing Authority does not intend to introduce a special policy in respect of cumulative impact. The absence of a special policy does not prevent any responsible authority or other person from making representations on an application on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will have regard to the layout of the local area of the premises and the local environment in appropriate cases.

- 4.3 Other Regulatory Regimes, HRA 1998 and integrating strategies

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.

- 4.4 The Licensing Authority will exercise its function under the Licensing Act 2003 with due regard to the requirements and responsibilities placed upon them by other legislation. Legislation which may be relevant includes:

- The Health and Safety at Work etc. Act 1974
- The Noise Act 1996
- The Environmental Protection Act 1990
- The Crime and Disorder Act 1998

- The Clean Neighbourhoods and Environmental Act 2005
- The Gambling Act 2005
- The Regulatory Reform (Fire Safety) Order 2005 and
- The Human Rights Act 1998.

4.5 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.

4.6 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.

4.7 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.

## 5. Conditions

5.1 Standardised conditions will be avoided but selection may be made from the pool of conditions at Annex A 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.

5.2 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.

## 6. Key Strategies for 2016 – 2021

### 6.1 Framework Hours

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 and reduced congestion at taxi ranks and fast food outlets. However, the later opening hours have brought increased levels of crime, disorder and nuisance. Responsible Authorities, local residents and local Councillors have reported many issues, including noise, anti-social behaviour and litter, which are having an adverse impact on their quality of life. In particular, there has been an increase in violent crime in Windsor town centre between the hours of 00:00 and 04:00.

Having considered the evidence of alcohol related crime, disorder and anti-social behaviour, the number of late night premises and, in particular, the social, practical and regulatory impacts on the morning after the night, the Licensing Authority has adopted a Framework Hours Policy. This Framework Hours Policy will apply to new and variation applications.

### 6.2 The Framework Hours are:

Premises Type	Commencement Hour for Licensable Activities	Hour for	Terminal Hour for Licensable Activities

	No earlier than	No later than
Off licence	09:00am	11:00pm
Restaurant	09:00am	01:00am
Pub/Bars/Night Clubs	10:00am	02:00am
Takeaways	n/a	02:00am

- 6.3 The Framework Hours Policy is not an entitlement. An applicant will still need to demonstrate that, for the terminal hour of 02:00 to apply for example, it can operate so as to promote the licensing objectives and that the application and proposed operation is reasonably acceptable in the particular location.
- 6.4 The operational hours of existing licensed premises will remain unchanged. On any application for a review of an existing licensed premises, the Framework Hours Policy may be a valid consideration depending upon the circumstances of the application. On any review application the Licensing Authority are not bound to maintain and apply the Framework Hours. Hours of operation and commencement and terminal hours for licensable activities will need to be considered in light of the promotion of the licensing objectives and the hours that are reasonably acceptable in the particular location.
- 6.5 Framework Hours are intended to guide applicants on the Licensing's Authority's expectations when preparing their Operating Schedule. However, if no relevant representations are received, the application will be granted by the Licensing Authority under delegated powers.
- 6.6 Any conditions setting out hours of premises refers, unless otherwise stated, to the hours during which licensable activities may take place pursuant to the Premises Licence or Club premises Certificate. The Licensing Authority expects the premises to close thirty minutes after the terminal hour for the latest licensable activity.
- 6.7 Subject to any relevant representations that may be made to the contrary in individual cases, certain types of licenced premises are not considered to make a significant contribution to the problems of late night crime and disorder and anti-social behaviour and, as such, these premises will generally have greater freedom to operate outside framework hours. Such venues are predominantly seated. Examples include:
- Theatres
  - Cinemas
  - Qualifying Clubs
- 6.8 For the purpose of this policy, premises shall be considered as a restaurant or café if the sale of alcohol is made only to seated customers who are also dining and where this is a condition of the licence, or a condition volunteered in the Operating Schedule for the premises. Where such conditions have not been offered, the premises will be treated as a public house.
- 6.9 Hot Take-Away Food and Drink Premises

Late night refreshment venues, with or without authorisation for the sale and supply of alcohol, are those whose activities include supplying hot food and drink for consumption off the premises between the hours of 23:00 and 05:00. Such premises can attract large numbers of customers who have come from bars and clubs in the area who have consumed considerable quantities of alcohol. These customers can be noisy and cause disturbance in the vicinity long after other nearby licensed premises have closed.

These types of premises are often found in clusters or in close proximity to late night opening bars, clubs and other potential crime and disorder hotspots including unlicensed late night refreshments, bus stops, and taxi ranks which can give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will have regard to the layout of the local area of the premises, the local environment and in appropriate cases the cumulative impact of such operations.

Consumption of food can also lead to public nuisance being caused by deposits of litter in the area. Late night refreshment venues will almost always operate outside the Framework Hours. They are therefore expected to provide a robust Operating Schedule outlining in particular how they will address the prevention of crime and disorder and public nuisance objectives.

#### 6.10 Music, Dance and Similar Venues

The Licensing Authority recognises the cultural importance and significance of premises providing live music, dance and similar entertainment. The Royal Borough is keen to encourage diverse forms of entertainment throughout the borough, but at the same time recognises that this can, if not properly managed, give rise to public nuisance concerns that impact adversely on persons living and working in the vicinity of licensed premises. It is particularly important that entertainment operators pay particular regard to the prevention of public nuisance objective when preparing their Operating Schedules.

Statistics show that nightclubs and late night dance venues generally contribute far higher levels of alcohol related violence per premises than other licensed venues. As a result, nightclub and late night dance venue operators should pay particular regard to the prevention of crime and disorder objective when preparing their Operating Schedules.

#### 6.11 Promoting Food-Led and Seated Entertainment Venues

The Licensing Authority wishes to encourage applications for food-led and other predominantly seated entertainment venues. Nationally, it has been demonstrated that restaurants and similar establishments have a lower impact on crime, disorder and nuisance; this national observation has been experienced locally within the Royal Borough. In order to encourage food-led and other predominantly seated entertainment venues, the Royal Borough has determined to adopt a Framework Hours Policy (see above) with a terminal hour of 01:00 being set for such premises.

The Framework Hours Policy is not an entitlement, an applicant will still need to demonstrate that, for the terminal hour of 01:00 to apply, it can operate so as to promote the licensing objectives and that the application and proposed operation is reasonably acceptable in the particular location.

#### 6.12 Licensing and Planning Protocol

The Royal Borough has developed a Licensing and Planning Protocol to assist in the proper demarcation of the respective competencies of the licensing and planning regimes. The Protocol is set out at Annex B.

#### 6.13 Wider Community Interest

The Licensing Authority considers that its licensing functions are exercised in the public interest, furthermore that the Licensing Authority is under a duty to take any steps with a

view to the promotion of the licensing objectives in the interests of the wider community and not just those of the individual licence holder.

The Licensing Authority will have particular regard to those applications in close proximity to residential premises and the likely effect on the promotion of the licensing objectives in such circumstances. Subject to any relevant representations, the Licensing Authority will have particular regard to:

- 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.

## **7. Promoting the Prevention of Crime and Disorder**

7.1 Where relevant representations have been made, the Licensing Authority will have particular regard to the following issues in relation to the crime and disorder objective:

- 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

7.2 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. Where relevant representations are made by the Police, the conditions to be imposed in such cases are set out in Annex A – Pool of Conditions, 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.

7.3 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.

#### 7.4 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.

## 8. Promoting Public Safety

8.1 Where relevant representations have been made, the Licensing Authority will have particular regard to the following issues in relation to the public safety objective:

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

8.2 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

#### 8.3 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.

## **9. Promoting the Prevention of Public Nuisance**

9.1 Where relevant representations are made, the Licensing Authority will have particular regard to the following issues in relation to the public nuisance objective:

- 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

9.2 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.

## **10. Promoting the Prevention of Children from Harm**

10.1 The Royal Borough recognises that the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms directly associated with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Licensing Authority will also consider the need to protect children from sexual exploitation when undertaking licensing functions.

10.2 The Royal Borough will give considerable weight to representations about child protection matters. In addition to the Local Safeguarding Children Board, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about harms that alcohol can cause to underage drinkers. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged

under 18, the Licensing Authority will have particular regard to ensure that conditions are imposed to ensure that this objective is effectively promoted. Applicants are therefore expected to provide a robust Operating Schedule outlining in particular how they will address the prevention of children from harm objective.

- 10.3 Alcohol is often a factor in child sexual exploitation, where young people may be encouraged or coerced to drink; alcohol may also 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.
- 10.4 The Windsor and Maidenhead Local Safeguarding Children Board (LSCB) works with other statutory authorities and the licensing trade to promote risk management and safeguarding 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.
- 10.5 The Licensing Authority encourages license holders and operators of licensed premises:
- a) 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 criminal offence and
  - b) 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.
- 10.6 The LSCB, the NWG and the Royal Borough websites contain more information about child sexual exploitation matters and can be found here:  
<http://www.wamlsqb.org/>  
<http://www.nwgnetwork.org/>  
[http://www.rbwm.gov.uk/web/social\\_child\\_protect.htm](http://www.rbwm.gov.uk/web/social_child_protect.htm)
- 10.7 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 objective. 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
- 10.8 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.
- 10.9 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.
- 10.10 On the receipt of any application the licensing officers of the Licensing Authority will undertake a preliminary assessment as to whether Child Protection issues arise. Where it is considered that such issues are engaged the licensing officers will mark the application for the immediate attention of the Local Safeguarding Children Board with a request that any relevant representations, if required, should be made to the Licensing Authority within the relevant time period for the submission of relevant representations.

## **11. Consumption of Alcohol in Public Places**

- 11.1 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.
- 11.2 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.

## **12. Enforcement**

- 12.1 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 Licensing Team will engage with other partner agencies as necessary. The council has an enforcement policy which is available on the council's website. Enforcement action will generally be taken in accordance with that policy.

## **13. Live Music, Dancing and Theatre**

- 13.1 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.

## **14. Film Exhibition**

- 14.1 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.

## **15. Retail Radio Scheme**

- 15.1 All premises licensees will be encouraged to subscribe to the Council's award-winning Retail 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.

## **16. Pubwatch**

- 16.1 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. Licensees are, however, encouraged to join their local Pubwatch, regardless of the conditions of their licence.
- 16.2 Further information about the Pubwatch scheme can be viewed at [www.nationalpubwatch.org.uk/](http://www.nationalpubwatch.org.uk/) or supplied by the Licensing Team, upon request.

## **17. Transport**

- 17.1 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.

## **18. Temporary Events**

- 18.1 Section 100 of the Licensing Act 2003 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 to Environmental Protection. No notification need be given to other authorities such as the Fire Authority or Planning Section by the applicant but see below.
- 18.2 Section 100 (7) of the Act 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.
- 18.3 The Authority strongly recommends that all Temporary Event applications are received by the Authority, by Thames Valley Police and by Environmental Protection 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.
- 18.4 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.

## 18.5 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.

## ANNEX A – POOL OF CONDITIONS

### 1. 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.

### 2. 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, 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 that 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.

### 3. 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.

#### **4. 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.

#### **5. 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.

#### **6. 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).

## **7. 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 (e.g. 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.

## **8. 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.

## **9. 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.

## **10. 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.

## **11. 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.

## **12. 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.

### **13. Large Capacity Venues Used Exclusively Or Primarily For The “Vertical” Consumption Of Alcohol (Hvuds)**

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.

### **14. 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

### **15. 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

### **16. 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

## **17. 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.

## **18. Conditions Relating To The Protection Of Children From Harm**

### **18.1 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.

### **18.2 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.

### 18.3 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.”

## 18.4 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).

## 18.5 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.

## 18.6 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.

## **18.7 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.

## **18.8 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.

## ANNEX B - LICENSING AND PLANNING PROTOCOL

Licensing and Planning are two separate regimes. As a matter of law the Licensing Authority could not refuse an application because of the absence of appropriate planning consent. However the Licensing Authority would generally expect applicants to have planning and other permissions required for lawful operation of the premises in place at the time of the licensing application. For the avoidance of doubt, the granting of any variation to an existing licence which involves a material alteration to a building does not relieve the applicant of the need to apply for planning permission, listed building consent or building regulations approval where appropriate.

The Licensing Authority has recognised that the overlap between the objectives of licensing and planning are a source of confusion for operators and the wider community. It is clear that planning, building control and licensing should properly be separated to avoid duplication and inefficiency. This is relatively easy to state but much harder to formulate any general principle that would assist in demarcating the respective competences of the planning and licensing authorities.

It may however be generally stated that the framework and substance of the Licensing Act 2003, and its underlying rationale, would strongly suggest that operational matters are intended primarily for regulation by the licensing authorities.

There can, however, be no hard-and-fast rule the planning context in respect of the land use principles and the operational matters thereto is complex and there is likely to be a multiplicity of situations. In appropriate circumstances the planning authority may impose conditions on granting permission for licensed premises that concern operational matters and there may be cases where the planning authority could properly leave such matters to be regulated by the Licensing Authority. Each case has to be considered upon its own facts.

The inevitable confusion that arises in the practical application of overlapping yet separate regimes undermines the key aim and purpose of greater community involvement in licensing decisions. The Royal Borough has developed a Licensing and Planning Protocol to assist in the proper demarcation of the respective competencies of the licensing and planning regimes.

### 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 premises 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

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.

## ANNEX C - DELEGATION OF FUNCTIONS

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

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

<b><u>Matter to be dealt with</u></b>	<b><u>Licensing Panel</u></b>	<b><u>Sub Committee</u></b>	<b><u>Officers</u></b>
Authority to make a representation on behalf of the Licensing Authority as a responsible or to review a licence on behalf of the Licensing Authority			Community Protection and Enforcement Lead

This page is intentionally left blank